HOUSE OF REPRESENTATIVES—*Wednesday, June 12, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratefulness those who are committed to public service and whose abilities and talents are used to benefit the people of our land. May their efforts be to provide assistance to those with need and to be devoted to the principles of justice for each person. Bless, O God, every member of our society, who seeks to encourage others so people will know the fruits of liberty and the opportunities of a just society. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wyoming [Mr. THOMAS] come forward and lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 64) entitled "An act to provide for the establishment of a National Commission on a Longer School Year, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. HATCH, and Mrs. KASSEBAUM, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 426. An act for the relief of Abby Cooke.

THE PRESIDENT'S PAST 100 DAYS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, tonight the President will call attention to his 100-day deadline for Congress to pass his domestic agenda. The President's time and energy might be better spent working with the Congress to solve the serious problems our country faces, instead of playing politics with them.

Let us look at the state of our country for the past 100 days. Over the last 100 days, unemployment rose from 6.5 percent to 6.9 percent, throwing close to another half million Americans out of work; 37 million Americans remained without any health insurance, including 24 million middle-class working men, women, and their dependents.

America is facing a health care crisis. Middle-class Americans are demanding help, and over the past 100 days the President has done nothing to address their needs. When I meet people in grocery stores or malls, they ask me what is being done about the economy and the high cost of health care. They are concerned, frustrated, and outraged about the costs and scared of the very real possibility of losing their jobs and their health care benefits.

Over the past 100 days, working middle-class American families have waited anxiously for leadership from their President on the problems that they live with every day. They need a plan to address the soaring costs of health care. They need a plan that offers them relief from constantly rising taxes. They need a plan that promotes access to educational opportunities for their country. Stop telling them that they are not eligible.

If the President does not hear the people crying out for help, then he is not listening.

Now is the time to pay as much attention to the homefront as the President did to the warfront.

The American people need the President's attention, not politics.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to express its welcome to all of our visitors in the Gallery, but to admonish all visitors that expressions of approval or disapproval by applause or otherwise are contrary to the rules of the House, and the Chair would appreciate our guests observing the rule.

CONGRESS HAS DONE NOTHING TO CONTROL CRIME

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, just 2 days ago, four people were wounded, one critically, in Buffalo's latest drive-by shooting when a carload of gang members opened fire on a neighborhood park crowded with mothers and their small children.

Buffalo police report that there have already been more than 35 drive-by shootings in the Queen's City so far this year, and across the country violent crime has risen by 10 percent last year.

Mr. Speaker, someone is murdered in this country every 24 minutes, a woman raped every 6 minutes.

But what has Congress done to stop the scourge of violent crime in America? Congress has done nothing.

This Friday marks the 100th day since President Bush stood in this Chamber and challenged Congress to act on his crime measure, and yet in those 100 days anticrime legislation has not even been voted on in committee.

Maybe some in Congress think the American people do not care about crime, but the victims of Buffalo's latest drive-by shootings, the victims of crime across this country, certainly care. They do not want to be controlled by crime any longer. They want to control crime. This Congress should act to do that now.

GOVERNMENT BY PRESS RELEASE, GIMMICK AND SYMBOLS

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, today we have a classic example of government by press release, government by gimmick, government by symbols totally devoid of any substance.

Our colleagues on the other side of the aisle and the President are crying great crocodile tears over the fact that a crime bill and a transportation bill have not been passed by an arbitrary deadline. Everyone knows that Con-

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gress will pass legislation in both of these important areas this year. That is not the real issue confronting the American people.

The real issue is that this administration has no program to deal with the fundamental problems facing the American public today. This administration has no program to deal with the health care crisis. This administration has no program to deal with unemployment. This administration has no effective program to clean up the savings and loan mess, but is sinking deeper and deeper each day into a financial crisis.

This administration, Mr. Speaker, is 100 percent gimmick, 100 percent press release, and no substance. We have a President and a Republican Party that simply is not up to the task of solving our Nation's problems. It is a tragic situation. Mr. Speaker, this administration and his party are all button and no shirt.

IN SUPPORT OF PRESIDENT'S COMPREHENSIVE VIOLENT CRIME CONTROL PACKAGE

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, I rise today to express my support for the comprehensive violent crime control package unveiled by President Bush on March 14. The President says that a basic civil right is to be free from fear and I agree. The American people need and deserve help in their struggle to take back the streets, in their fight against crime. Just as we stood by our brave troops in Operation Desert Storm, we must now stand up for America's prosecutors, police officers, and crime victims. Congress needs to pass legislation to help those who protect us by giving them the tools they need to get the job done. We cannot accept an ineffective crime bill that is tougher on law enforcement and victims than it is on criminals. Progress was made last year when legislation was passed that attempted to deal with these serious issues. Now we're back with a new 1991 package which is more comprehensive in its scope and thorough in its details. This proposal increases the penalties for crimes committed with a firearm and strengthens the death penalty. It also contains new provisions dealing with terrorism, violence against women, gangs, and juvenile offenders. Children are the most vulnerable people in society, and we in Congress have a responsibility to do everything we can to protect them. We in Congress have been challenged to approve this crucial crime control legislation in 100 days. We now have only a few days until the Friday deadline. Let us get down to the business of fighting criminals. The President's bill deserves our full support, and the time for action is now.

□ 1010

CHAIRMAN OF COMMITTEE ON RULES INFORMS MEMBERS OF DEADLINE FOR FILING AMENDMENTS TO FOREIGN OPERATIONS APPROPRIATIONS BILL, FISCAL YEAR 1992

The SPEAKER. For what purpose does the gentleman from Massachusetts [Mr. MOAKLEY] rise?

Mr. MOAKLEY. Mr. Speaker, I would like to inform Members that the Committee on Appropriations may request a rule that would require amendments to be submitted prior to the consideration of the fiscal 1992 foreign operations appropriations bill.

To fully protect their rights, Members should submit 55 copies of their amendment, and a brief explanation of their amendment, to the Rules Committee in H-312 of the Capitol no later than 5 p.m. on Monday, June 17.

This should allow Members ample time to prepare and submit their amendments.

Though the Appropriations Committee has not yet formally made this request, I wanted to call this matter to the attention of the House to assure that Members' interests are not circumscribed.

It is anticipated that the Rules Committee will meet to grant a rule on Tuesday, June 18, and the House will consider the bill on Wednesday, June 19.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, I wanted to inquire on behalf of Members, this would not in any way eliminate or weaken or limit any Member's right to offer a motion to strike, which I understand is always in order, to reduce spending? In other words, that kind of amendment would not be affected?

Mr. MOAKLEY. All amendments would have to be submitted.

Mr. GINGRICH. All amendments?

Mr. MOAKLEY. All amendments.

Mr. GINGRICH. I thank the gentleman.

NEARLY 900 DAYS, AND STILL NO AGENDA FROM THE PRESIDENT

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the President has a calendar. What he lacks is an agenda for the people who need one most: working Americans and their families.

The President has been in office nearly 900 days. Yet, where is his program for health care?

Nearly 900 days. Yet, where is his plan to relieve the pain and suffering of this recession?

Nearly 900 days. Yet, where is his program to deal with unemployment?

Yet 37 millon Americans need answers. They have no health insurance; 8.6 million Americans need answers. They have no jobs.

In fact, in the last 100 days, the same 100 days the President uses as his personal yardstick, 400,000 more Americans joined the unemployment rolls.

These people and this Congress don't need arbitrary, artificial deadlines. What we need is leadership from the White House to address the real issues for our families: jobs and health care.

We don't need deadlines for the sake of headlines. We need action, for the sake of America.

SMALL BUSINESS MUST BE INVOLVED IN HEALTH INSURANCE SOLUTION

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, yesterday's Washington Post contained a feature highlighting the problems small businesses face in trying to provide health insurance to their employees.

The article pointed out that small businesses are as much victims of the rising health care costs as are individual Americans. Small businesses need help—in the form of cost containment and the freedom to select the best plan.

Newly introduced legislation in the Senate recognizes that there needs to be a small business perspective to the health-care debate. It is encouraging to see that a section of the proposed bill is devoted to the special needs of small business.

But, Mr. Speaker, I would caution my colleagues recognition of the problem is only the beginning. The small business community must be active participants in shaping final legislation.

It is clear that all the key players must be involved if we are to shape a comprehensive program for restoring the viability of our Nation's health-care system. Small business must have a seat at the negotiating table.

My colleagues, it is easy to say that you are all for small business. But it is how you vote that really counts.

MR. BUSH'S POLAROID PRESIDENCY

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, tonight, the next photo opportunity in Mr. Bush's Polaroid Presidency will occur on the White House lawn.

He will call for action on legislation that Congress already intends to pass: Bills to attack street crime and rebuild our roads.

But no matter. This is a President who prefers rhetoric to action, symbols to substance, vetoes to progress, and campaigning to governing.

On crime, Mr. President, we share your concern. Under 11 years of Republican rule, violent crime is up 22 percent, rape is up 13 percent, and theft is up 10 percent. That's exactly why we need a good crime bill, not a fast crime bill or a Bush crime bill, but an effective crime bill.

The real story is, of course, that this President has only a calendar not a domestic agenda.

In the last 100 days, more than 160,000 Americans have lost their jobs, we've spent $200 million on health care, domestic auto sales declined by 100,000 and the trade deficit jumped $17 billion. While this administration has no unemployment insurance, health care, auto industry, or Fair Trade Enforcement Program, Democrats do.

The President seems determined to be remembered not for moving the country forward but by his symbols: the flash cube, the light meter, and the veto pen. The Democrats in the 102d Congress hope to be remembered for the differences they made in the lives of the American people, particularly our working families.

THE DEMOCRATS SHOULD GET TOGETHER ON A CRIME BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I rose just to urge the Democratic leader to meet with the Democratic chairman of the Committee on the Judiciary. We were informed yesterday by our ranking member on the Subcommittee on Crime that the President's crime bill has not been parceled out to the subcommittees, that in the 100 days in which 6,500 Americans were killed, over 40,000 Americans were raped, there were over 1,400,000 assaults on Americans, the Democratic leadership has not moved the crime bill an inch.

It has not had any hearings, it has not set up any effort, it has not set up any procedure.

Now, here is a case where the President has a clear agenda, he has a clear bill, a bill, by the way, which the Democratic leadership dropped in conference last fall after the House voted for it.

So I would just say to my distinguished friend, the Democratic majority leader, if he would meet with the Democratic chairman of the Committee on the Judiciary, meet with the Democratic Speaker, and bring forth an American crime bill that all of us could support, we would not be having photo opportunities and Americans would be a lot safer.

NINE HUNDRED DAYS: NO PLAN, NO PROGRAM, JUST BUTTONS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, yesterday—and I do not see them today—our Republican colleagues were wearing buttons saying "100 Days." Buttons, bumper stickers, balloons, is this what Government has become?

The American people want leadership. Instead, they get hot air. The President complains Congress has not passed his crime package in 100 days. Yet he says nothing about the biggest crime of all on his watch, the increased buildup in debt, the RTC, the savings and loan crisis.

The President complained Congress has not passed a transportation bill in 100 days. Thank goodness, because the one thing his bill will not do is improve transportation or end rush hours.

The President has spoken to several commencements in the last 100 days. Never once telling them that his proposed Pell grant cuts would have kept many of them from graduating.

And the biggest crime of all, no administration proposals to take on the health care crisis. Millions of Americans live in fear of any type of medical emergencies.

How many in the last 100 days have chosen not to go to a physician to get that necessary care?

I am not concerned about 100 days; Mr. Speaker, the American people want to know why and how they are better off after 900 days of the Bush administration. No plan, no program, just buttons.

American families demand better.

AMERICAN AID SHOULD GO TO REFORMERS, NOT COMMUNIST-CONTROLLED GOVERNMENTS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROHRABACHER. Mr. Speaker, Lithuanian blood is still dripping from the treads of Soviet tanks and Mr. Gorbachev is demanding hundreds of billions of dollars in aid from the people of the United States.

The Communists in the Kremlin continue wasting huge portions of their own peoples' money on their military and they have the nerve to insist that the American people send them cash?

The only thing more absurd than this is that powerful people in this town are taking their demands seriously.

We are closing up emergency rooms at our hospitals for lack of funds and we are going to send billions in aid to the Soviet Union; give me a break. Is this the twilight zone or the Capitol of the United States of America?

Today I will offer an amendment to the foreign aid bill which sets the principle that if we provide aid and that is a big "if," either to the Soviet Union or Yugoslavia, two countries in transition, it should go to the reformers in the democratically elected republics and not to the Communist-controlled central governments.

I ask my colleagues to support my amendment and go on record that America should be on the side of reformers in the republics rather than on the side of the Kremlin and that we should be on the side of the people and not the Politburo.

□ 1020

THE AMERICAN WORKING CLASS DESERVES BETTER

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, I rise today to express my support for continuing Federal aid to needy college students. The Bush administration is proposing to cut drastically eligibility guidelines for Federal student aid programs depriving many children of middle-income and working-class families of aid for education. This penalizes middle America.

Congress has approved a budget that attempts, within current restrictions, to treat Americans fairly. How can anyone support President Bush's efforts to enact capital gains tax cuts for the wealthy while cutting guaranteed student loans for the children of America's working families?

The middle-class American family is the bedrock of our Federal tax system. As their real dollar earnings have gone down and their taxes have gone up, these families are finding it increasingly difficult to finance their homes, health care, and everyday living expenses. Middle-income families have seen college tuition rise four times as quickly as their disposable income, and total college costs three times as fast. Today, the average cost of a 4-year public college is $5,000; for a private college it is $12,000. This has doubled in 10 years. Many families can no longer afford to finance their children's education. A decade ago these families were eligible for Federal student aid. Today they are not. The administration would make them less so.

The Bush administration is proposing to increase Pell grants to a maximum

of $3,700 per year from $2,400 by dropping 400,000 students from eligibility and focusing the grants on those from families earning less than $10,000. However, of the 400,000 students who would be cut, about 280,000 would be from families earning less than $15,000 a year.

In Nebraska, 21,960 high school graduates go on to attend the University of Nebraska in Lincoln, our largest educational institution. For the 1990 school year, resident tuition, room and board averages $4,800 per student. Of a total of 24,453 students attending the university, almost 50 percent rely on financial aid in some form. I want to ensure that not one of these student is denied the opportunity to attend the university.

One of the hallmarks of the American dream is that education is the door to opportunity. Not only does education bring opportunity, it is a good investment for our Nation. To those who argue that we cannot afford student loans and grants, I would argue we cannot afford not to. A well-educated student today is a productive citizen tomorrow who returns revenue to the Treasury and keeps our economy going.

Many students in this country could never have gone to college without Federal student loans and grants, like the GI bill that sent many Americans to college after World War II. I call on my colleagues to reject the Bush administration's cuts and stand up for our students of today and citizens of tomorrow.

THE CASE FOR A CRIME BILL

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, the President has sent to this Congress a broad domestic agenda, but the majority in this Congress, which has no program of its own, does nothing, and one example is the crime bill.

Mr. Speaker, crime in the United States is on the rise, and meanwhile the Congress waits. The need for a major crime bill is evident to one and all.

In the last year alone, according to the FBI, violent crime in the United States has increased by 10 percent. Drug-related violence is skyrocketing. This past year the number of aggravated assaults increased by 10 percent, robberies by 11, rape by 9.

However, Mr. Speaker, the surge in violent crime is not limited to America's largest cities. It is alarming to note that the largest increase in violent crime occurring in America is in the medium-sized cities previously thought to be insulated from this phenomenon.

Mr. Speaker, to some these statistics may be dry numbers, but they represent people, people whose lives have been torn apart by violent crime, and there is no time to waste; 100 days ago, the President called for Congress to pass his crime bill. Congress has done nothing. It is time for Congress to stop delaying.

PRESIDENT IGNORES ISSUES THAT TRULY MATTER

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, the President's phony 100-day challenge to Congress to enact his legislation on crime and transportation amounts to nothing more than political gimmickry and marks the opening salvo of this 1992 campaign.

He has exposed his own inability to lead the Nation on some of our most pressing problems and concerns—issues that truly matter to all Americans.

In the last 100 days, more than 163,000 Americans lost their jobs.

Just yesterday, the Census Bureau reported that home ownership has dropped for the first time since the Great Depression.

College tuition continues to rise four times as fast as the average American family's disposable income.

And the first large American city, Bridgeport, CT, declared bankruptcy just last week.

We need a President who listens more to the pleas of concerned Americans than he does to his own campaign advisers.

Unfortunately, the fact is, this President wouldn't know a domestic agenda if it walked up and wished him a happy birthday at his party tonight.

FEAR

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, I am going to talk about fear. The fear that grips all Americans in these times of increasing violent crime.

The fear of parents to let their children play outside after dark.

The fear of families to take an evening walk.

The fear of parents to allow their children to attend schools that are infested with drugs.

The fear of children to go to sleep at night.

The fear of women to walk to their cars or jog after dark.

The fear of inner-city parents that their playgrounds are turning into shooting galleries.

Fear on behalf of all urban citizens regarding the increasing threat of gang violence.

The fear citizens feel to press charges against a criminal who they feel will be released within hours.

Mr. Speaker, this fear that I have described is manifesting itself throughout the United States, in small towns and large. As a governing body, we have no more profound duty than to provide an America where people of all ages, races, economic classes and religions live their lives safe from the threat of bodily harm. The President has given us a crime control bill to act upon. Let us take up this challenge and provide a safe America for one and all.

THE 100-DAY MESSAGE THE AMERICAN PEOPLE ARE WAITING FOR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in a CIA report now being hushed up and apologized for, American national security experts are warning that Japan is bent on economic dominance of, not only America, but the world, and Congress should watch out.

My colleagues, it is evident from Main Street to Wall Street that Japan is doing with the dollars and the yen and protectionism what they could not do with the bomb, and let me say this:

While Congress continues to turn the other cheek, Japan, like Hannibal Lector, is eating America's face off, and, if my colleagues do not believe that, ask some business people like T. Boone Pickens.

Mr. Speaker, it is time that we look at trade protectionism to other nations before we do not have another job in this country and our economy completely falls apart. That is the 100-day message that American people are waiting for.

FREE TRIP TO EUROPE FOR 400 EMPLOYEES OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the arrogance of some within our unelected elitist Federal bureaucracy never ceases to amaze. Yesterday the Washington Post reported on the planned trip to Italy next week by 400 employees of the Department of Health and Human Services. These people want to go on an all expense paid trip to the international conference on AIDS. The expense to the taxpayers for this bureaucratic junket will be $1,350,000. One official defended it by pointing out that this is a lower number than the

730 who went to the conference in San Francisco last year and at less cost.

David Rogers of the National Commission on AIDS said that criticism of this travel was mean spirited. Actually what is mean spirited are bureaucrats who have a public-be-damned attitude. Actually what is mean spirited is taking money from taxpayers, many of whom are having to scrimp to get by while they see others go on free trips to Europe.

Mr. Speaker, I am thankful that John Sununu got HHS to reduce this number by 100, however our Government is broke and over $4 trillion in debt. We are losing approximately $1 billion a day at the Federal level today. We certainly cannot afford to be sending several hundred people to a meeting in Italy when a small handful could represent us as well and bring back all the useful information.

GET A GRIP, RTC

(Mr. MCMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCMILLEN of Maryland. Seventy-five billion dollars, Mr. Speaker. That is what Charles Bowsher of GAO said the RTC bailout may need this fall. Mismanagement, he declared.

Pick up today's Washington Post, and read about the RTC office in Kansas that bought $26,000 of the finest art. Mr. Martinelli, head of the office, said, "If this makes my employees happy and productive, I think it's money well spent."

So, I ask Mr. Martinelli, "How about the millions of Americans who want health care or housing but can't get it because the money is not there because your agency is ripping off the American public?"

Get a grip, RTC. The American people are fed up with this administration playing partisan politics while the RTC is bungling this bailout.

Mr. Speaker, let this President spend the next 100 days cleaning up this mess.

□ 1030

AMERICAN PEOPLE DEMAND ACTION ON CRIME BILL

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, approximately 100 days ago the President of the United States asked Congress to act on his proposed crime package and his proposed transportation bill; 100 days later, approximately, Congress still has not acted on either bill.

One of the reasons given is clearly amazing. I saw a distinguished leader of the majority party speaking to the national news media, and he said the President is insulting the idea of a 100-day timetable because 100 days is the time that President Franklin Roosevelt gave to act on his agenda, and his agenda was so much larger.

In other words, 100 days by our current President is an insult, because he has asked for less than President Roosevelt asked for a number of years ago.

Where is the logic to that? If President Bush has asked for less of an agenda in the last 100 days, it should have been easier for the Congress to act on these before 100 days, and then we could move on in unity to other issues. Instead, we have not acted at all. All of what we are hearing, Mr. Speaker, is an excuse. It is an excuse by those who do not want to pass a tough anticrime package. But the American people demand that we act, and we should move immediately.

THE PRESIDENT'S BIRTHDAY

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, today is the President's birthday, and I join Members of both sides of the aisle in wishing Mr. Bush the best. But I think it is apt to say that outside of the White House, Mr. Bush should not expect to have his cake and eat it, too.

The President should not call himself the education President, and then propose severe cutbacks in student aid.

Mr. Bush should not say he is the environment President, and then propose an energy policy which brings no new energy, but devastates our natural resources.

President Bush should not propose massive expenditures to fix our deteriorating highways and bridges, and then assign the costs to State and local governments.

Mr. Speaker, the President is expected to address the Nation tonight and criticize Democrats in Congress. With the recent divisive debate on the civil rights bill, he has already shown himself to be stepping back from a kinder and gentler Presidency.

Mr. Speaker, I hope this does not mean that the most we will be seeing of those thousand points of light will be the candles on the President's birthday cake.

WHERE IS THE CRIME BILL?

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, where's the crime bill? Why has Congress not met the President's 100-day challenge?

Personal safety is one of the most basic concerns of our citizens. Our constituents—whether they're from Los Angeles, Chicago, or rural Missouri—have this in common: They would like to walk their neighborhoods free from the fear of ending up another FBI statistic.

This Friday marks the 100th day since President George Bush issued his 100-day challenge to the Congress to act on a tough crime bill. Americans are still waiting. Why is Congress delaying?

The President has submitted a tough crime bill to Congress. In the House, it has been introduced by our Republican leader, BOB MICHEL.

Mr. Speaker, Americans deserve a Congress that will respond to their needs and concerns. In this instance, the Democrat-controlled Congress is failing.

FAIRNESS: PRESIDENT BUSH'S DUPLICITY ON AMERICA'S FUTURE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, tonight, the President plans to chastise the Congress for not acting on his legislation within his prescribed timeframe. Unfortunately, the President's remarks will do little to further the domestic policy interests of this country. Furthermore the President's remarks will be duplicitous—he has no domestic agenda.

Whenever we attempt to address an unmet domestic need—Americans without health care, rising drug and crime rates, failure of our schools, millions of America's children going to bed hungry every night—the President says we cannot afford to solve the problem.

When a typhoon hit Bangladesh we found the emergency aid.

When Kuwait and our oil supplies were in danger, we found the emergency funds.

When Eastern Europe and the Soviet Union faced economic collapse we extended credits and the President plans $1 billion more for the Soviet Union.

When tens of thousands of Kurdish refugees massed at the Turkish border, we found millions of dollars for food and emergency housing.

Why is it, Mr. President, that every time you need to take an action in the international community, you find the money and every time we confront a domestic crisis you tell us we cannot afford a solution and we should rely on volunteers?

The President cannot continue to ignore crises at home because he finds foreign policy more interesting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NAGLE). The Chair would remind Members that remarks should be addressed

to the Speaker, and not the President personally.

MIXING APPLES AND ORANGES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the gentleman from California [Mr. ROHRABACHER], in pushing his amendment to the foreign aid bill, is mixing apples and oranges. Yugoslavia is not the Soviet Union, Croatia is not Latvia, and Serbia is not Lithuania.

After World War II, the United States helped form Yugoslavia as a sovereign nation. The United States has never recognized the annexation of Estonia or Lithuania.

It seems strange that members of the Republican Party would favor dismemberment of a sovereign nation. The Republican Party was founded as the party of equal rights for all and founded on the principles of union, union of the Nation. Republicans have never been a party of disunion, and we should not start now.

In a letter in March, President Bush said:

> It should be absolutely clear that the United States does not and will not favor any particular national or ethnic group in Yugoslavia. At the same time, we want to see differences among nationalities resolved within the framework of a single democratic Yugoslavia, and will not encourage or reward those who would break the country apart.

Mr. Speaker, we do not have to add to the problems over there, which finally appear to be on the verge of becoming resolved.

WE'LL SEE YOUR 100 DAYS, AND RAISE YOU ONE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is time that Capitol Hill told the White House that we will see your 100-day challenge, and we will raise you one. We will give the White House 50 days to withdraw their call to eliminate college assistance for 400,000 American kids from working families; we will give the President 30 days to stop wringing his hands and produce a health care reform program for our Nation; we will give the President 30 minutes to come up with a plan to clean up his own mess in administering the savings and loan bailout; and we will give the President 15 minutes to take a look at the America we all love, roll up his sleeves, and address the problems of unemployment, education, health care, gridlock, and tax fairness.

DIDDLING, DAWDLING DEMOCRATS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, 100 days ago we had just won the war, and we felt pretty good about America's ability to get things done. That is until we got to the Congress. Here we found the President issued a challenge. He said in 100 days, Congress ought to be able to do something about crime and transportation.

Well, what has happened in the House? Nothing. Zip. Zero.

What has happened in America in those 100 days? Well, 6,500 Americans have been killed in homicides. What have the diddling, dawdling Democrats in the House done? They have done nothing.

Almost 45,000 Americans have been raped. What have the diddling, dawdling Democrats in the House done? Nothing.

Over 330,000 Americans have been robbed in that 100 days. What have the diddling, dawdling Democrats in the House done? Nothing.

Almost 1½ million Americans have been assaulted in that 100 days. What have the diddling, dawdling Democrats in the House done? Nothing.

It is time for the American people to recognize the problems that they have in the country rest right here in the House.

NOW IS TIME TO GET ON TOP OF BANK PROBLEMS

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, yesterday the Nation's top auditor told us that the administration has added $50 billion to the cost of the S&L bailout by a massive misuse of taxpayer funds. Now he says that the Bush administration is wrong about the woes of the Nation's banks. He says they're much sicker than the administration admits, and that a taxpayer bailout will have to be in the cure.

This is deja vu all over again. When the problems at the S&L's began to surface, the administration provided sugar-coated assurances that the costs would be minor. Now average taxpayers are swallowing the bitter bill of a $500 billion bailout; $500 billion for a problem they neither caused nor profited from.

Mr. Speaker, if we learned anything from the thrift crisis, it's that primrose path predictions will only hurt the taxpayer in the end. We should not allow the administration to stick its head in the sand and pretend to the American people that the banks are in no real trouble. If a taxpayer bailout is needed—and all of us hope that it is not—then let us get on top of the problem now, and make sure that working Americans are not forced to pay one dime more than needed to keep our banks afloat. And if we are going to talk about a taxpayer bailout, let us also discuss which taxpayers will be doing the bailing out—the privileged few who reaped huge dividends from the deregulation of our Nation's financial institutions over the last 10 years, or everyone else, who have to work overtime and second jobs just to stay where they were a decade ago.

□ 1040

ENACTING THE PRESIDENT'S AGENDA

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, 97 has gone and this is day 98. The President gave us 100 days to do just two things: pass a bipartisan public works, antirecessionary highway bill and to do something about crime.

I agree with the Democratic majority leader and everyone else who stood up here today. Crime is a problem in this country, and crime has been on the rise for the last 11 years. Part of the reason it has been on the rise for 11 years is that the Congress has done nothing about crime.

Yes, we will, right after the election, pass a crime bill out of this House, and we will send it over to the Senate. Then we will make sure one of two things happens. Either we have a conference report that includes nothing in it or we do not have a conference report at all, but we will cover ourselves with a vote.

I also find it absolutely amazing that Members would talk about the recession. Did I forget something? Was it not the Democratic Party who last year led the fight against economic growth in the budget battle? They seem a little sensitive today. I guess if I was in their shoes, I would be sensitive too.

PRESIDENT PROPOSES LEGISLATION: CONGRESS DISPOSES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I had not intended to give a 1-minute speech today, but as I listened to the tone of the 1-minutes I have heard I felt compelled to do so.

Mr. Speaker, we should understand the President of the United States cannot make legislation. The President, like any other citizen of the United States, can propose legislation to the Congress of the United States.

The Congress of the United States is controlled by the Democratic Party majority. They have a vision, quite frankly, in the special interests and in the parochial interests, quite contrary to the President's vision in general interest.

The President hopes for a kinder and gentler Nation. In order to get his legislation enacted, for that to happen, he must get it through Congress.

Unhappily for the President, his vision and the American people, the Congress is ruled by a Democratic majority that is not kinder and gentler, but, in fact, it is seedier and greedier.

DEMOCRAT RHETORIC ON WHAT PRESIDENT BUSH HAS NOT SAID

(Mr. EMERSON asked and was given permission to address the House for 1 minute.)

Mr. EMERSON. Mr. Speaker, it has been announced that the President is going to speak tonight on issues affecting domestic policy, but he has not spoken yet. We do not know yet what he is going to say. But he is the President of all of us, and we, the Congress and the Nation should listen to what he has to say and then discuss and debate what he has to say.

I had not intended to say anything this morning. But sitting here waiting to participate in the legislative agenda of the day, I am shocked at the railing that has occurred on the liberal left about what the President has not even yet said. It appears there is an attempt to put up a smoke screen to cover the inaction, inaction on the left of the agenda that the public does want addressed.

It is the liberal left, out of touch, that rails instead of acting, postures instead of producing on the agenda that the vast American middle wants dealt with.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore (Mr. NAGLE). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1045

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. DELLUMS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, June 11, 1991, all time for general debate had expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title is considered as read.

No amendment on the subject of military assistance to El Salvador shall be in order.

Subject to clause 6 of rule XXIII, debate on all amendments shall not exceed 8 hours.

No amendments to the bill are in order except those amendments printed in the CONGRESSIONAL RECORD, with the following exceptions:

First, amendments printed in the CONGRESSIONAL RECORD offered en bloc by the gentleman from Florida [Mr. FASCELL] or his designee, which may include germane modifications in the text of any amendment. Said amendments en bloc shall be considered as read and shall not be subject to amendment or to a demand for a division of the question.

Second, an amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD] specified in the rule; and

Third, pro forma amendments for purposes of debate.

It shall be in order to consider amendments offered en bloc by the gentleman from Ohio [Mr. HALL]. Said amendments en bloc are considered as having been read, are not subject to a demand for a division of the question, and may amend portions of the bill not yet considered for amendment.

At the conclusion of consideration of the bill for amendment, it is in order to consider an amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD], or his designee. Said amendment is considered as having been read and is debatable for 1 hour, notwithstanding any other provision of this rule.

There are three sections that precede title I.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2508

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 "International Cooperation Act of 1991".

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

I take this time just to inform our colleagues that the leadership has requested that we run until 7 o'clock tonight. Under the rule, as Members can see, we have 8 hours in which to consider all amendments to the bill and all amendments thereto.

In order to be fair, Mr. Chairman, we are just going to have to object to extensions of time. There are a lot of amendments. I do not know what the last count was. Last time we considered this bill we had 250 amendments. I think 150 have been printed in the RECORD already.

So, in fairness to those who have amendments and who want them to be considered, we just simply cannot extend time. I would hope that my colleagues who have amendments that we have debated over and over again and everybody is pretty clear on what the issue is, that we could reach an understanding that would be satisfactory to try and shorten the time on those amendments.

□ 1050

Otherwise any one of the amendments could use up the whole 8 hours, and I do not think that is fair either, Mr. Chairman, so I am asking my colleagues to cooperate with us. We will move this bill as rapidly as we can and hopefully try to get it done.

I do not have any illusions about what will happen once we start talking, but I hope that we can get some cooperation.

I have no amendments.

The CHAIRMAN pro tempore (Mr. DELLUMS). Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS FOR THIS ACT.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents for this Act.
Sec. 3. Table of contents for amended Foreign Assistance Act.

TITLE I—ECONOMIC ASSISTANCE

Sec. 101. Revision of economic assistance programs.

TITLE II—MILITARY ASSISTANCE, RELATED ASSISTANCE, AND MILITARY SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ASSISTANCE AUTHORITIES

Sec. 201. Revision of assistance programs.
Sec. 202. Conforming amendments.
Sec. 203. Transition rule concerning disposition of certain previously provided military equipment.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

Sec. 221. Arms transfer policy.
Sec. 222. Improved accounting for foreign military sales.
Sec. 223. Designation of major non-NATO allies.
Sec. 224. Certification thresholds.
Sec. 225. Standardizing congressional review procedures for arms transfers.
Sec. 226. Foreign availability.
Sec. 227. Economic impact of United States arms sales.
Sec. 228. Coproduction agreements.
Sec. 229. Enforcement of arms export licensing requirements.

Sec. 230. Biennial review of the international traffic in arms regulations.
Sec. 231. Fair pricing.
Sec. 232. Contract administrative service charges for NATO subsidiary bodies.
Sec. 233. Amendments to eliminate obsolete and inconsistent provisions.
Sec. 234. Technical corrections.

CHAPTER 3—OTHER PROVISIONS

Sec. 241. Depleted uranium shells.
Sec. 242. Arms transfers restraint policy for the Middle East and Persian Gulf region.

TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec. 301. Consolidation and revision of authorities.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Sec. 401. Consolidation and revision of authorities and requirements.
Sec. 402. Exemption of narcotics-related military assistance for fiscal years 1992 and 1993 from prohibition on assistance for law enforcement agencies.
Sec. 403. Export-Import Bank financing of antinarcotics-related sales of defense articles or services.

TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

Sec. 501. Special initiatives and provisions.
Sec. 502. Conforming amendment relating to the Environment for the Americas Board.

TITLE VI—SPECIAL AUTHORITIES, RESTRICTIONS, REPORTS, GENERAL PROVISIONS, AND TECHNICAL AND CONFORMING AMENDMENTS

CHAPTER 1—SPECIAL AUTHORITIES, RESTRICTIONS, AND REPORTS

Sec. 601. Consolidation and revision of authorities and requirements.

CHAPTER 2—ADMINISTRATIVE AND GENERAL PROVISIONS

Sec. 621. Consolidation and revision of provisions.

CHAPTER 3—TECHNICAL AND CONFORMING PROVISIONS

Sec. 641. Savings provisions.
Sec. 642. Retention of certain provisions formerly in the Foreign Assistance Act.
Sec. 643. Renaming of Trade and Development Program; conforming changes.
Sec. 644. Conforming amendments.
Sec. 645. Repeal of obsolete provisions.

TITLE VII—LATIN AMERICA AND THE CARIBBEAN

CHAPTER 1—EL SALVADOR

[Reserved for provisions relating to El Salvador]

CHAPTER 2—OTHER PROVISIONS PERTAINING TO CENTRAL AMERICA

Sec. 721. Promoting Central American recovery and development.
Sec. 722. Military aircraft transfers.
Sec. 723. Assistance for Guatemala.
Sec. 724. Assistance for Nicaragua.
Sec. 725. Assistance for refugees and displaced persons.
Sec. 726. Assistance for democratic legislatures.

CHAPTER 3—THE CARIBBEAN

Sec. 741. Assistance for Haiti.
Sec. 742. Haitian sugar cane harvesters in the Dominican Republic.
Sec. 743. Assistance for Guyana.
Sec. 744. Democracy in Suriname.

CHAPTER 4—ANDEAN INITIATIVE

Sec. 761. Economic assistance and administration of justice programs for Andean countries.
Sec. 762. Military and law enforcement assistance for Andean countries.
Sec. 763. General provisions relating to assistance for Andean countries.

CHAPTER 5—OTHER PROVISIONS PERTAINING TO THE REGION

Sec. 781. Assistance for law enforcement.
Sec. 782. Inter-American Foundation.
Sec. 783. Military assistance and sales for Chile.
Sec. 784. Central American Journalism Program and the Regional Administration of Justice Program.

TITLE VIII—EUROPE AND THE MIDDLE EAST

CHAPTER 1—MIDDLE EAST

Sec. 801. Assistance for Israel.
Sec. 802. Assistance for Egypt.
Sec. 803. Promoting pluralism and democracy.
Sec. 804. West Bank and Gaza program.
Sec. 805. Middle East scientific and technological cooperative projects.
Sec. 806. Cooperative development projects.
Sec. 807. Israeli-Palestinian people-to-people activities.
Sec. 808. Policy toward and assistance for Lebanon
Sec. 809. Restrictions and reports with regard to Syria.
Sec. 810. Captured Iraqi equipment.
Sec. 811. Iraqi compensation for damages to other countries.
Sec. 812. Peace and stability in the Middle East.
Sec. 813. Cumulative impact of conventional arms transfers to the Middle East.
Sec. 814. Restrictions on negotiations with the Palestine Liberation Organization.
Sec. 815. United Nations General Assembly Resolution 3379.
Sec. 816. Israeli preemptive strike against the Iraqi nuclear reactor at Osirak.
Sec. 817. Democratic reform and human rights in Kuwait.

CHAPTER 2—EASTERN MEDITERRANEAN

Sec. 821. Assistance for Cyprus.
Sec. 822. Assistance for Greece.
Sec. 823. Assistance for Turkey.
Sec. 824. Admission of Turkey into the European Community and the Western European Union.
Sec. 825. United Nations Secretary General's peace initiatives regarding Cyprus.

CHAPTER 3—SUPPORT FOR EAST EUROPEAN DEMOCRACY

Sec. 841. Amendments to SEED Act of 1989.
Sec. 842. United States policy regarding Eastern Europe.
Sec. 843. East European countries eligible for SEED benefits.
Sec. 844. Structural adjustment.
Sec. 845. Private sector development.
Sec. 846. Trade and investment.
Sec. 847. Educational, cultural, and scientific activities.
Sec. 848. Other assistance programs.
Sec. 849. Additional SEED Program actions.
Sec. 850. Funding of SEED Program.
Sec. 851. Conforming amendments to list of SEED actions.

CHAPTER 4—OTHER PROVISIONS RELATING TO EUROPE

Sec. 861. Contributions to Anglo-Irish International Fund.
Sec. 862. Technical assistance for Baltic states and for democratic governments and nongovernmental organizations in the Soviet Union.
Sec. 863. Assistance for the Republic of Armenia.
Sec. 864. Soviet-Eastern European research and training program.
Sec. 865. United States policy toward Yugoslavia.
Sec. 866. Situation in Kosovo province of Yugoslavia.
Sec. 867. Policy statement regarding the importation of sporting and hunting rifles and shotguns from certain East European countries.
Sec. 868. Soviet aid to Cuba.

TITLE IX—ASIA AND THE PACIFIC

CHAPTER 1—EAST ASIA AND THE PACIFIC

Sec. 901. Burma.
Sec. 902. Cambodia.
Sec. 903. Prohibition on military assistance to Fiji.
Sec. 904. Malaysia.
Sec. 905. South Pacific regional program.
Sec. 906. Taiwan's contributions to Operations Desert Shield and Desert Storm.
Sec. 907. Cooperation on POW/MIA issue.
Sec. 908. Admission of Asian countries into the OECD.
Sec. 909. Assistance to displaced Burmese in Thailand and Burma.
Sec. 910. Arms transfers by the People's Republic of China to Iran, Iraq, Libya, Pakistan, and Syria.

CHAPTER 2—SOUTH ASIA

Sec. 921. Assistance for Afghanistan.
Sec. 922. Mines in Afghanistan.
Sec. 923. United States-Soviet dialogue on a political settlement in Afghanistan.
Sec. 924. United States support for democracy and development in Bangladesh.
Sec. 925. Nepal.
Sec. 926. Promotion of human rights in Sri Lanka.

CHAPTER 3—INDUSTRIAL COOPERATION PROJECTS IN CHINA AND TIBET

Sec. 941. Statement of principles.
Sec. 942. Registration requirement.
Sec. 943. Reporting requirements.
Sec. 944. Export marketing support.
Sec. 945. Definitions.

TITLE X—AFRICA

CHAPTER 1—AUTHORIZATIONS OF ASSISTANCE FOR AFRICA

Sec. 1001. African Development Foundation.
Sec. 1002. Support for the Southern Africa Development Coordination Conference.
Sec. 1003. Economic support assistance for sub-Saharan Africa.
Sec. 1004. Support for democratization in sub-Saharan Africa.
Sec. 1005. African Center for Conflict Resolution.

CHAPTER 2—PROVISIONS RELATING TO SPECIFIC COUNTRIES

Sec. 1021. Angola.
Sec. 1022. Burundi.
Sec. 1023. Ethiopia.
Sec. 1024. Kenya.
Sec. 1025. Liberia.

Sec. 1026. Malawi.
Sec. 1027. Mozambique.
Sec. 1028. Somalia.
Sec. 1029. South Africa.
Sec. 1030. Sudan.
Sec. 1031. Zaire.

CHAPTER 3—UNITED STATES COMMISSION ON SOUTHERN AFRICA

Sec. 1041. Short title.
Sec. 1042. Findings.
Sec. 1043. Establishment.
Sec. 1044. Purpose of Commission.
Sec. 1045. Membership; chairperson.
Sec. 1046. President and staff of Commission.
Sec. 1047. Powers of Commission.
Sec. 1048. Requirements.
Sec. 1049. Report.
Sec. 1050. Funding.

CHAPTER 4—OTHER PROVISIONS

Sec. 1061. United States trade restrictions on products from sub-Saharan Africa.
Sec. 1062. Recognition of sub-Saharan African support during the Persian Gulf conflict.
Sec. 1063. Conditions on furnishing IMET for sub-Saharan Africa.
Sec. 1064. International Fund for Agricultural Development.
Sec. 1065. Exemptions from restrictions on assistance.
Sec. 1066. United Nations Educational and Training Program for Southern Africa.
Sec. 1067. Preemption of State and local sanction measures against Namibia.

TITLE XI—OTHER PROVISIONS

Sec. 1101. Effective date.
Sec. 1102. Definition relating to prior year military assistance.
Sec. 1103. Peace Corps.
Sec. 1104. Environmental security and foreign policy.
Sec. 1105. United States support for UNCED.
Sec. 1106. United Nations convention on the right to food.
Sec. 1107. Reforming the United Nations response to international disasters.
Sec. 1108. Authority to forgive repayment of an Alliance for Progress loan.

The CHAIRMAN pro tempore. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. TABLE OF CONTENTS FOR AMENDED FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended by striking out the first section and inserting in lieu thereof the following:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Foreign Assistance Act of 1961'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Section 1. Short title and table of contents.

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—ECONOMIC ASSISTANCE POLICIES

"Sec. 1101. Findings and declarations of policy concerning economic assistance programs generally.
"Sec. 1102. Basic objectives of economic assistance programs and United States development cooperation policy.

"CHAPTER 2—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"Sec. 1201. Assistance for development needs.
"Sec. 1202. Authorizations of appropriations.
"Sec. 1203. Funding for health, child survival, AIDS, and Vitamin A deficiency activities.
"Sec. 1204. Assistance for population planning.
"Sec. 1205. Funding for the United Nations Population Fund.
"Sec. 1206. Nongovernmental organization family planning assistance activities.

"Subchapter B—Special Focus Programs and Activities

"Sec. 1221. Assistance for human rights and democratic initiatives.
"Sec. 1222. Development education.
"Sec. 1223. Strengthening the capacity of nongovernmental organizations, including research and educational institutions.
"Sec. 1224. Microenterprise development.
"Sec. 1225. Private voluntary organization activities.

"Subchapter C—Other Authorities and Requirements

"Sec. 1241. Impact of development assistance on environment and natural resources.
"Sec. 1242. Cost sharing.
"Sec. 1243. Assistance limited to economic programs.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"Sec. 1301. Assistance under special economic, political, and security conditions.
"Sec. 1302. Authorizations of appropriations.
"Sec. 1303. Purchase of United States goods and services.

"CHAPTER 4—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"Sec. 1401. Authority to provide assistance.
"Sec. 1402. Authorizations of appropriations.
"Sec. 1403. Condition on contributions to the International Atomic Energy Agency.
"Sec. 1404. Withholding of United States proportionate share for certain programs of international organizations.
"Sec. 1405. Restriction on contributions to United Nations Relief and Works Agency.
"Sec. 1406. Reports on international organizations.
"Sec. 1407. Auditing of accounts of international organizations.
"Sec. 1408. Integration of women.

"CHAPTER 5—GUARANTEE PROGRAMS

"Sec. 1501. Housing and urban development guarantee program.
"Sec. 1502. Private sector guarantee program.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"Sec. 1601. Statement of policies.
"Sec. 1602. Authority to provide assistance.
"Sec. 1603. Authorizations of appropriations.
"Sec. 1604. Borrowing authority.

"CHAPTER 7—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"Sec. 1701. Authority to provide assistance.
"Sec. 1702. Authorizations of appropriations.

"Subchapter B—Debt for Development

"Sec. 1721. Debt exchange.

"CHAPTER 8—REIMBURSABLE PROGRAMS

"Sec. 1801. Authority to conduct reimbursable programs.
"Sec. 1802. Use of payments.

"CHAPTER 9—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"Sec. 1901. Authorizations of appropriations for operating expenses generally.
"Sec. 1902. Authorizations of appropriations for operating expenses of the Inspector General.
"Sec. 1903. Additional funds for operating expenses.

"Subchapter B—Evaluation

"Sec. 1921. Evaluation and accountability.

"Subchapter C—Cooperation With Nongovernmental Sector

"Sec. 1941. Center for University Cooperation in Development.
"Sec. 1942. Center for Voluntary Cooperation in Development.
"Sec. 1943. Advisory Committee on Voluntary Cooperation in Development.

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"Sec. 2101. Findings and statements of policies regarding military assistance.
"Sec. 2102. Objectives of military assistance.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"Sec. 2201. Authority to furnish assistance.
"Sec. 2202. Terms of financing assistance.
"Sec. 2203. Eligibility.
"Sec. 2204. Approval of third country transfers.
"Sec. 2205. Improved accountability with respect to financed commercial arms sales.
"Sec. 2206. Considerations in furnishing assistance.
"Sec. 2207. Authorizations of appropriations.

"CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES

"Sec. 2301. Modernization of defense capabilities of military assistance recipients.
"Sec. 2302. Modernization of counter-narcotics capabilities of major illicit drug producing or drug-transit countries.
"Sec. 2303. Natural resources and wildlife management.
"Sec. 2304. Annual ceiling on transfers of excess defense articles.
"Sec. 2305. Annual reports on transfers of excess defense articles.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"Sec. 2401. Authorized functions.
"Sec. 2402. Limit on size of groups.
"Sec. 2403. Costs.
"Sec. 2404. Role of chief of mission.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"Sec. 2501. General authority.
"Sec. 2502. Terms of assistance.
"Sec. 2503. Exchange training.
"Sec. 2504. Training in maritime skills.
"Sec. 2505. Authorizations of appropriations.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"Sec. 2601. General authority.
"Sec. 2602. Special transfer and drawdown authorities.
"Sec. 2603. Administrative authorities.
"Sec. 2604. Authorizations of appropriations.

"CHAPTER 7—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"Sec. 2701. Restrictions on stockpiling.
"Sec. 2702. Location of stockpiles.
"Sec. 2703. Additions to war reserve stocks.

"CHAPTER 8—INTERNATIONAL TERRORISM

"Sec. 2801. Coordination of all United States terrorism-related assistance to foreign countries.
"Sec. 2802. Considerations in providing assistance.
"Sec. 2803. Antiterrorism assistance.
"Sec. 2804. Authorities and limitations.
"Sec. 2805. Reports to Congress.
"Sec. 2806. Administrative authorities.
"Sec. 2807. Authorizations of appropriations.
"Sec. 2808. Prohibition on assistance to countries supporting international terrorism.

"CHAPTER 9—OTHER PROVISIONS

"Subchapter A—Special Drawdown Authorities

"Sec. 2901. Special drawdown authorities.

"Subchapter B—Exercise and coordination of functions

"Sec. 2921. Responsibilities of the Secretary of State.
"Sec. 2922. Responsibilities of the Secretary of Defense.
"Sec. 2923. Security assistance coordination.

"Subchapter C—Miscellaneous

"Sec. 2941. Personnel limited to noncombatant duties.

"TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

"CHAPTER 1—TRADE AND DEVELOPMENT AGENCY

"Sec. 3101. Purpose.
"Sec. 3102. Authority to provide assistance.
"Sec. 3103. Director and personnel.
"Sec. 3104. Annual report.
"Sec. 3105. Advisory board.
"Sec. 3106. Inspector General.
"Sec. 3107. Funding.

"CHAPTER 2—OVERSEAS PRIVATE INVESTMENT CORPORATION

"Sec. 3201. Purpose and policy.
"Sec. 3202. Stock of the corporation; organization and management.
"Sec. 3203. Investment insurance, guarantees, financing, and other programs.
"Sec. 3204. Enhancing private political risk insurance industry.
"Sec. 3205. Guidelines and requirements for OPIC support.
"Sec. 3206. Issuing authority, direct investment fund, equity fund, and reserves.
"Sec. 3207. Income and revenues.
"Sec. 3208. General provisions relating to insurance, guaranty, and financing program.
"Sec. 3209. General provisions and powers.
"Sec. 3210. Annual report; maintenance of information.
"Sec. 3211. Definitions.

"TITLE IV—INTERNATIONAL NARCOTICS CONTROL

"CHAPTER 1—GENERAL POLICIES

"Sec. 4101. Statements of policy.
"Sec. 4102. Coordination of all United States anti-narcotics assistance to foreign countries.

"CHAPTER 2—NARCOTICS CONTROL ASSISTANCE

"Sec. 4201. Authority to conclude agreements and provide assistance.
"Sec. 4202. Authorizations of appropriations.
"Sec. 4203. Contribution by recipient country.
"Sec. 4204. Use of herbicides for aerial eradication.
"Sec. 4205. Prohibition on procurement of weapons and ammunition.
"Sec. 4206. Permissible uses of aircraft and other equipment.
"Sec. 4207. Retention of title to aircraft.
"Sec. 4208. Prohibition on use of narcotics control assistance to acquire real property.

"CHAPTER 3—FOREIGN ASSISTANCE GENERALLY AND NARCOTICS CONTROL

"Sec. 4301. Prohibition on use of foreign assistance for reimbursements for drug crop eradications.
"Sec. 4302. Prohibition on assistance to drug traffickers.
"Sec. 4303. Transfer of funds when countries fail to take adequate steps to halt illicit drug production or trafficking.
"Sec. 4304. Waiver of restrictions on narcotics-related economic assistance.

"CHAPTER 4—REPORTS AND ANNUAL CERTIFICATION PROCESS

"Sec. 4401. Reporting requirements for fiscal years 1992 and 1993.
"Sec. 4401A. Reporting requirements applicable after September 30, 1993.
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"CHAPTER 5—PERSONNEL

"Sec. 7501. Statutory officers in economic assistance agency.
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"CHAPTER 6—MISCELLANEOUS PROVISIONS

"Sec. 7601. Definitions.".

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—ECONOMIC ASSISTANCE

SEC. 101. REVISION OF ECONOMIC ASSISTANCE PROGRAMS.

The Foreign Assistance Act of 1961 is amended by striking out part I and inserting in lieu thereof the following:

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—ECONOMIC ASSISTANCE POLICIES

"SEC. 1101. FINDINGS AND DECLARATIONS OF POLICY CONCERNING ECONOMIC ASSISTANCE PROGRAMS GENERALLY.

"(a) REASONS FOR ECONOMIC ASSISTANCE.—The Congress finds and declares as follows:

"(1) Fundamental and pervasive economic, political, and technological changes have resulted in the growing interdependence of countries and have created an increasing awareness in the United States and around the world of the need for all countries to participate in efforts to promote broad based, sustainable development.

"(2) The economic prosperity and security of the people of the United States and of the world are best maintained and enhanced in an international community that respects individual civil and political rights and economic freedoms, provides for fundamental human needs, works to use wisely the world's limited resources in a sustainable manner, and works toward the achievement of economic well-being for all people.

"(3) Economic assistance authorized by this title reflects the traditional humanitarian ideals of the American people and a commitment—

"(A) to assist in the elimination of hunger, poverty, illness, and ignorance in developing countries, and

"(B) to help alleviate the suffering brought about by natural and manmade disasters.

"(4) The efforts of developing countries to build and maintain the social, political, and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

"(b) NEED FOR COORDINATED APPLICATION OF RESOURCES.—The Congress recognizes that successful achievement of the four basic objectives set forth in section 1102 depends on the coordinated application of resources. Accordingly, the President should—

"(1) develop and implement a coordinated international economic and development policy and program of action designed to make progress toward the achievement of those objectives, bringing to bear all relevant activities of the United States Government, including policies concerning international trade and debt, contributions to multilateral development banks, policies concerning international monetary issues, and policies in such areas as agriculture, the environment, and health; and

"(2) work with other donor countries and institutions to coordinate international development programs and policies.

"SEC. 1102. BASIC OBJECTIVES OF ECONOMIC ASSISTANCE PROGRAMS AND UNITED STATES DEVELOPMENT COOPERATION POLICY.

"(a) FOUR BASIC OBJECTIVES.—The primary purpose of United States economic assistance is the promotion of broad based, sustainable, participatory development, with particular focus on the poor. In pursuit of that purpose, economic assistance programs to the extent specified in this Act, and United States economic cooperation policy generally, shall have the following four basic objectives, which are interrelated and mutually reinforcing:

"(1) SUSTAINABLE ECONOMIC GROWTH.—Promotion of broad based economic growth.

"(2) SUSTAINABLE RESOURCE MANAGEMENT.—Improvement of resource management designed to bring about environmentally and economically sustainable patterns of development.

"(3) POVERTY ALLEVIATION.—Alleviation of the worst manifestations of poverty through the development of human resource capacity.

"(4) DEMOCRACY.—Promotion of democracy, respect for human rights, and social and economic pluralism.

"(b) SUSTAINABLE ECONOMIC GROWTH.—

"(1) RATIONALE.—Broad based, sustainable economic growth is in the interest of the United States because it permits countries to progress toward economic self-reliance, to improve the living standards of their citizens, and to increase international markets for trade and investment. Market-oriented economic growth establishes the basis for sustainable development and reinforces democratic ideals and practices. Successful long-term development cannot occur without broad based, sustainable economic growth that enables the poor to increase their incomes and access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope.

"(2) ELABORATION ON OBJECTIVE.—(A) Implementation of the objective of promoting broad based economic growth should recognize that economic, social, political, and environmental conditions vary among countries. While taking account of such differences, the economic assistance programs carried out in furtherance of the four basic objectives set forth in this section shall emphasize the following principles:

"(i) Security of economic rights for all citizens without regard to sex, race, religion, language, or social status, including the right to own property, the right to fair return from one's labor, and the right to engage in productive use of available assets.

"(ii) Economic policies based on free market principles as a means for establishing prices and for allocating goods and services.

"(iii) Economic reforms that benefit or are sensitive to and minimize adverse impact on the poor.

"(iv) Market base reforms—deregulation, privatization, labor market reform, reduction in barriers to the free flow of trade and investment—which increase the opportunity for all, especially the poor, to participate in economic activity.

"(v) Government policies protecting economic rights, fair and open markets, and the fulfillment of basic human needs.

"(vi) Adherence by governments to international economic agreements, particularly those relating to free and fair trade practices and to respect for worker rights.

"(B) A primary test of the effectiveness of economic assistance programs designed to promote broad based economic growth is the

extent to which the poor and disenfranchised can participate in and benefit from these programs and are thereby brought into the development process.

"(c) SUSTAINABLE RESOURCE MANAGEMENT.—

"(1) RATIONALE.—The economic and social well-being and the security of the United States and other countries are affected by how the world's environment and physical resource base are managed. Consumption patterns, systems of industrial and agricultural production, demographic trends, and the manner of use of natural resources all impact on the opportunities for long-term development and growth and survival for all countries. Both developed and developing countries share responsibility for the rational and sustainable management of natural resources.

Responsible management of physical resources is necessary to insure the availability of resources for future generations and to assure that the burdens of improved resource management do not fall disproportionately on the poor.

"(2) ELABORATION OF OBJECTIVE.—(A) Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Economic assistance programs authorized by this title should assist countries to adopt policies and programs that promote ecologically sound patterns of growth. Improved resource management tailored to the conditions and capabilities of the particular developing countries should be an integral part of all planning, programming, and reporting activities with respect to economic assistance.

"(B) Sustainable resource management should be promoted through the establishment and implementation of public policies and programs that provide incentives for better long-term management of resources and private and public investment toward resource-conserving technologies of production in energy, agricultural, and industrial production. To achieve this objective will entail, among other things—

"(i) more efficient and resource-conserving systems of sustainable agricultural production, with special emphasis on rain-fed agriculture;

"(ii) greater attention to forestry management for sustainable yields, agroforestry, reforestation, and watershed conservation, including better resource monitoring and assessment systems;

"(iii) improved water use management, including watershed protection, sustainable and efficient irrigation projects, and efforts to reduce costs and improve delivery of potable water and sanitation systems for both urban and rural areas;

"(iv) more systematic collection, preservation, and sharing of original and evolved plant and animal genetic material, including preservation of ecosystems and natural habitats;

"(v) attention to more efficient management of existing energy systems, to the promotion of increased use of least-cost energy resource planning procedures, and to the development of economically viable and more efficient systems of energy production and consumption that seek to maximize resource conservation;

"(vi) attention to resource conserving systems of urban development and industrialization that make efficient use of energy and natural resources, minimize the adverse effects of air and water pollution, facilitate safe waste disposal, including toxic wastes, and provide for improved environmental health and safety of the urban and surrounding rural populations;

"(vii) efforts to analyze and to reduce man-made contributions to changes in the global climate, including factors that may be contributing to global warming in the Earth's atmosphere; and

"(viii) greater attention to the relationships among demographic pressures, poverty, and environmental degradation.

"(C) Growth that is not environmentally sustainable cannot be economically sustainable in the long run. Improved resource management is a critical element of a balanced pattern of development.

"(d) POVERTY ALLEVIATION.—

"(1) RATIONALE.—It is in the interest of the United States to assist developing countries to achieve patterns of growth and development that will measurably and sustainably alleviate the worst manifestations of poverty in rural and urban areas and allow all people, especially those with low incomes, to lead economically and socially productive lives. As a people endowed with a spirit of humanitarian generosity, United States citizens have long demonstrated a moral imperative to help those in need. Further, peace and stability in the world cannot be achieved without economic development that also alleviates the worst manifestations of poverty.

"(2) ELABORATION OF OBJECTIVE.—(A) Broad based economic growth is necessary for the alleviation of the worst manifestations of poverty. Conversely, neither growth nor the alleviation of poverty can be sustained unless all people, especially the poor, have the basic assets and capabilities that foster the exercise of choice and participation in the economic, social, and political life of the country. Women, female children, and children of poor people have been especially disadvantaged in their access to these assets. Governments, together with nongovernmental organizations and international and multilateral organizations, should give special attention to alleviating the worst manifestations of poverty among these groups. Long-term poverty alleviation depends on patterns of broad based economic growth and the productivity generated by investments in the expansion of human well-being, capacity, and choice.

"(B) To achieve the objective of alleviating the worst manifestations of poverty will entail, among other things—

"(i) the expansion of education to all segments of the society, with particular attention to universal access to basic education, to sustainable improvement in the quality and diversity of educational opportunity, and to female education at all age levels;

"(ii) improvement in coverage, quality, and sustainability of health services, with special emphasis on universal access to primary health care, epidemiological detection and prevention programs, and sustainable systems of health care for mothers and children;

"(iii) a consistent program of support for systematic expansion of voluntary family planning services, with special emphasis on the role of the private voluntary and commercial sectors as providers of such services and on the development of more effective, acceptable family planning technologies appropriate to the conditions of developing countries;

"(iv) support for activities that enhance secure access of all to adequate food and nutrition derived from sustainable agricultural production, including the effectiveness and development contribution of food assistance made available under the Agricultural Trade Development and Assistance Act of 1954 and other food assistance programs; and

"(v) support for activities that enhance universal access to safe drinking water, basic sanitation, and basic shelter necessary for health.

"(e) DEMOCRACY.—

"(1) RATIONALE.—The promotion of democracy throughout the world is in the basic interest of the United States. Democratic development, political pluralism, and respect for internationally recognized human rights are intrinsically linked to economic and social progress. Democracy can only be sustained in a society in which the legitimacy of the government rests firmly on the expressed consent of the governed; the rights of all citizens, including minorities, are respected and protected; and there is effective civilian control over the military and security forces. It is in the interest of the United States and in keeping with our democratic traditions to support democratic aspirations and values, foster the spread of democratic institutions, and encourage universal respect for civil and political liberties.

"(2) ELABORATION ON OBJECTIVE.—(A) Furtherance of the basic objective of democracy requires that the United States promote—

"(i) the ability of all citizens of a country to organize and associate freely and independently of the government;

"(ii) the ability of all citizens to freely choose their government, to hold that government accountable, and to participate in political life;

"(iii) increased respect for internationally recognized human rights and the rule of law;

"(iv) respect for the diversity among the citizens of a country; and

"(v) acceptance of and respect for civilian authority by all elements of society.

"(B) An essential ingredient of development is the growth of indigenous nongovernmental organizations that are committed to democratic values and active in the promotion of democracy. United States efforts to foster democratic pluralism and build democratic institutions are most likely to create enduring bonds of democratic cooperation when United States nongovernmental organizations are involved in strengthening the capacity of nongovernmental organizations in other countries.

"(C) Democracy requires honest and open participatory government. United States assistance should help governments to establish processes of accountability and transparency to eliminate corruption and abuses of power and assist nongovernmental organizations to develop the capability to monitor the government's performance.

"(f) CROSS-CUTTING ELEMENTS.—The following key elements are applicable to the design and implementation of economic assistance programs to promote the four basic objectives set forth in subsection (a):

"(1) PARTICIPATION AND CONSULTATION.—Development is a process of change that requires the best possible information and judgment about the needs, capabilities, and aspirations of those most affected, either as participants in the delivery of assistance or as beneficiaries of assistance. For development to be broad based and sustainable, it is imperative to consult with, and fully engage in the policy and program planning process of, the governmental and nongovernmental organizations representative of and knowledgeable about local people and their interests. It is critical to involve beneficiaries in the assessment of the social, economic, and environmental impact of development

projects and programs. Use of local nongovernmental organizations is an effective means to accomplish this objective.

"(2) WOMEN IN DEVELOPMENT.—The expansion of women's economic opportunities is essential to alleviate poverty and to bring about effective broad based, sustainable development. Women must be an integral part of all aspects of any development program. The active involvement of women in economic, political, and social activities is necessary to promote democracy and to assure sustainable development. Women must participate in development as agents of change, not merely as recipients and beneficiaries of change. Women should, therefore, be integrally involved in policies, programs, and projects undertaken to achieve the objectives set forth in subsection (a).

"(3) NONGOVERNMENTAL COOPERATION IN DEVELOPMENT.—(A) Nongovernmental organizations (including private voluntary organizations, cooperatives, and credit unions) provide important mechanisms to increase the participation of rural and urban poor people in broad based sustainable development efforts and in the building of more pluralistic and open societies. The contributions of United States and indigenous nongovernmental organizations that represent and involve indigenous groups and communities should be fully utilized in meeting the four basic objectives set forth in subsection (a).

"(B) Cooperatives, credit unions, and other United States and indigenous nongovernmental organizations provide an opportunity for people to participate directly in democratic decisionmaking for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings. Such organizations should be fully utilized in fostering free market principles and the adoption of self-help approaches to development.

"(C) Nongovernmental organizations participating in the furnishing of assistance under this title should have a grassroots base and receive a significant portion of their financial support from other than government sources.

"(4) APPROPRIATE TECHNOLOGY.—The United States can make a significant contribution to development through the application of its vast array of technology. The President must ensure that such technology is appropriate for the level of development and factors of production prevalent in a particular country. In promoting such appropriate technology, the President should focus particularly on the capabilities of the private sector.

"(5) COLLABORATION.—The capabilities of many developing countries have evolved sufficiently that their institutions can collaborate on an equal basis with institutions in developed countries. At the same time, transnational threats that endanger political, economic, social, and environmental well-being require collaborative efforts among developed and developing countries. United States economic assistance should increasingly be focused on efforts to strengthen institutions in developing countries so that they may become partners in mutual international efforts to address transnational threats. United States collaborative programs should include association with institutions in advanced developing countries.

"(6) UTILIZATION OF UNITED STATES INSTITUTIONAL CAPABILITIES.—Programs and projects undertaken to achieve the basic objectives set forth in subsection (a) should recognize and take advantage of United States capabilities in science and technology and in access to education and training in United States colleges, universities, and technical training facilities. Long-term collaboration between public and private institutions of science, technology, and education in the United States and developing countries should be promoted and encouraged, with emphasis on increasing professional capabilities in developing countries for the provision of technical assistance in activities supported by the United States.

"(7) HUMAN RIGHTS.—United States economic assistance programs and policies, while encompassing due respect for differences in cultural values and national histories, should reflect the United States commitment, in keeping with its constitutional heritage and traditions and in accordance with its international obligations as set forth in the Charter of the United Nations, to promote and encourage increased respect for human rights and fundamental freedoms (as set forth in the Universal Declaration of Human Rights) throughout the world without regard to sex, race, language, religion, or social status.

"(g) EFFECTIVE USES OF ASSISTANCE.—

"(1) BENEFICIARY COUNTRIES.—Assistance furnished under this title should be concentrated in countries that will make the most effective use of that assistance in promoting the four basic objectives set forth in subsection (a).

"(2) ASSISTANCE WITHIN COUNTRIES.—Activities should be undertaken in regions of recipient countries that offer potential for successful development and should not be undertaken if the relevant sector or national economic policies of the country are clearly unfavorable to the sustainability or broadest possible impact of the assisted program or project.

"(3) TYPES OF ACTIVITIES.—Assistance should focus on those types of activities that the United States can provide most effectively.

"(4) CHILD SURVIVAL PRIORITY COUNTRIES.—(A) The President shall establish programs in support of health for all (such as health care initiatives, child survival activities, access to potable water and basic sanitation, and basic nutrition, including nutrition programs under the Agricultural Trade Development and Assistance Act of 1954) in each child survival priority country with which the United States has an ongoing program of development assistance or assistance from the Development Fund for Africa. The preceding sentence shall not apply in a fiscal year if the President submits to the appropriate congressional committees, before the beginning of such fiscal year, a detailed rationale for not including such programs in the programs of assistance for such child survival priority country.

"(B) A country shall be considered to be a child survival priority country for purposes of subparagraph (A) if the mortality rate in that country for children under 5 years of age is greater than 70 per 1,000 live births.

"(5) BASIC EDUCATION PROGRAMS.—(A) The President shall establish programs in support of basic education (including early childhood education, primary education, teacher training, other necessary activities in support of early childhood and primary education, and literacy training for adults) in each basic education priority country with which the United States has an ongoing program of development assistance or assistance from the Development Fund for Africa. The preceding sentence shall not apply in a fiscal year if the President submits to the Congress, before the beginning of such fiscal year, a detailed rationale for not including such programs in the programs of assistance for such basic education priority country.

"(B) A country shall be considered to be a basic education priority country for purposes of subparagraph (A) if fewer than 80 percent of primary school-age children in that country complete primary education.

"CHAPTER 2—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"SEC. 1201. ASSISTANCE FOR DEVELOPMENT NEEDS.

"(a) AUTHORIZATION.—The President shall use the authorities of this section to provide assistance, in furtherance of the basic objectives set forth in section 1102, to meet long-term development needs in developing countries.

"(b) FORMS OF ASSISTANCE.—The assistance authorized by this section shall be furnished as project and program assistance.

"(c) PURPOSE OF ASSISTANCE.—The authorities provided in subsection (d) shall be used in furnishing development assistance under this chapter to support a process of long-term development and economic growth in urban and rural areas of developing countries that is broad based, participatory, and sustainable, with particular focus on the poor.

"(d) GENERAL AUTHORITIES.—The President is authorized to provide development assistance to promote the following:

"(1) Economic policies that advance the four basic objectives set forth in section 1102, taking into account the need to protect vulnerable groups.

"(2) Increased agricultural productivity, especially food production and processing.

"(3) Improved health conditions, preventive care programs, and self-sustaining primary health care systems, with special emphasis on meeting the needs of mothers and children, including increased access to maternal, prenatal, and neonatal health care initiatives.

"(4) Child survival activities utilizing simple, available technologies that can reduce childhood morbidity and mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrheal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing.

"(5) Prevention and control of acquired immune deficiency syndrome (AIDS), with a special emphasis on community-based education programs focused on changing attitudes and behavior.

"(6) Activities to address the health, education, nutrition, and other special needs of displaced children who have been abandoned or orphaned as a result of poverty or man-made or natural disaster.

"(7) Voluntary population planning, including increased access to voluntary family planning services.

"(8) Improved quality and increased availability of educational opportunities, through both formal and informal mechanisms, especially universal access to basic education.

"(9) Environmentally sound, sustainable resource management, including projects in agricultural production and processing, forestry management, land and water management, and preservation of biological diversity.

"(10) Increased respect for internationally recognized human rights and the rule of law.

"(11) Improved performance of institutions of democratic governance, and the growth of independent associations.

"(12) More efficient energy systems, including energy efficiency improvements and the use of small-scale renewable energy technologies, and the use of least-cost energy resource planning to minimize total system costs, including costs to the environment.

"(13)(A) Expanded improvements in the physical and economic infrastructure of developing countries, including expanded availability and improvements in the quality of basic infrastructure, such as shelter, water, and electricity,

"(B) developmentally sound trade and commercial opportunities for continued United States involvement and participation in infrastructure assistance,

"(C) increased use of United States technical expertise, primarily in the private sector, in carrying out subparagraphs (A) and (B), in order to improve preproject planning and environmental impact assessments of projects, and otherwise; and

"(D) continued monitoring of the provision of infrastructure assistance to ensure that it conforms to the four basic objectives set forth in section 1102.

"(14) The development of income-generating opportunities, with special emphasis on the promotion of small and micro-enterprises.

"(15) Improved management accountability of public and private institutions.

"(16) Basic and applied research relevant to overcoming constraints to broad based, sustainable development.

"(17) Research and projects to devise and support new strategies to attack transnational threats that endanger the security and social and economic well-being of individual nations of the global community.

"(18) Programs to increase awareness of the effects of the production of and trafficking in narcotics and psychotropic drugs and other controlled substances and to reduce illicit cultivation of such drugs and other substances by stimulating broader development opportunities.

"(19) Other means of promoting the objectives set forth in section 1102.

"SEC. 1202. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $1,077,000,000 for fiscal year 1992 and $1,027,000,000 for fiscal year 1993.

"SEC. 1203. FUNDING FOR HEALTH, CHILD SURVIVAL, AIDS, AND VITAMIN A DEFICIENCY ACTIVITIES.

"(a) HEALTH, CHILD SURVIVAL, AND AIDS.—

"(1) AGGREGATE EARMARK.—Of the funds authorized to be appropriated by section 1202, not less than $327,000,000 for each of the fiscal years 1992 and 1993 shall be available only to carry out paragraphs (3), (4), and (5) of section 1201(d).

"(2) FUNDING TARGETS.—The Administrator should target not less than the following amounts of the funds authorized to be appropriated by section 1202 for each of the fiscal years 1992 and 1993 for assistance under the following paragraphs of section 1201(d):

"(A) $135,000,000 to carry out paragraph (3), relating to health.

"(B) $130,000,000 to carry out paragraph (4), relating to child survival activities.

"(C) $62,000,000 to carry out paragraph (5), relating to acquired immune deficiency syndrome (AIDS) prevention and control.

"(b) VITAMIN A DEFICIENCY.—

"(1) FINDINGS.—The Congress finds that vitamin A deficiency is a major cause of childhood mortality. The Congress recognizes that increasing vitamin A consumption is inexpensive, practical, and cost-effective in terms of human productivity.

"(2) FUNDING.—Of the funds authorized to be appropriated by section 1202, not less than $12,000,000 for fiscal year 1992 and not less than $15,000,000 for fiscal year 1993 shall be made available only for reducing vitamin A deficiency.

"SEC. 1204. ASSISTANCE FOR POPULATION PLANNING.

"(a) POPULATION PLANNING ASSISTANCE.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, assistance under this chapter shall include assistance for voluntary population planning.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out this section $300,000,000 for fiscal year 1992 and $350,000,000 for fiscal year 1993, in addition to any other amounts made available under this Act for such purpose.

"(c) LIMITATION ON DIVERSION OF POPULATION FUNDS TO OTHER PURPOSES.—In implementing requirements or authorities to provide assistance from funds appropriated to carry out this chapter or this title, the amount available to carry out subsection (a) pursuant to the authorizations provided in subsection (b) shall not be reduced by a greater proportion than the amount available to carry out section 1201 pursuant to the authorizations provided in section 1202.

"SEC. 1205. FUNDING FOR THE UNITED NATIONS POPULATION FUND.

"Of the funds appropriated under section 1204(b), $20,000,000 or 16 percent of the amount appropriated (whichever is less) shall be available only for the United Nations Population Fund, subject to the following conditions:

"(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

"(2) None of these funds shall be made available for programs for the People's Republic of China.

"(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

"SEC. 1206. NONGOVERNMENTAL ORGANIZATION FAMILY PLANNING ASSISTANCE ACTIVITIES.

"Funds made available to carry out this title or chapter 1 or chapter 2 of title V that are made available for population activities shall not be denied to nongovernmental organizations or multilateral organizations on the basis of any criterion that is not applicable to foreign governments that receive such funds.

"Subchapter B—Special Focus Programs and Activities

"SEC. 1221. ASSISTANCE FOR HUMAN RIGHTS AND DEMOCRATIC INITIATIVES.

"(a) AUTHORIZATION AND GENERAL PURPOSES OF ASSISTANCE.—The President may use funds made available for development assistance, economic support assistance, and assistance from the Development Fund for Africa to furnish assistance to support the programs and activities described in subsection (b) in order to—

"(1) promote increased adherence to internationally recognized human rights, as set forth in the Universal Declaration of Human Rights;

"(2) improve the performance of institutions of democracy; and

"(3) otherwise promote democracy pursuant to section 1102.

"(b) PROGRAMS AND ACTIVITIES THAT MAY BE SUPPORTED.—Funds made available under this section shall be available to support the following:

"(1) Programs and activities to enhance the independence and performance of institutions of democratic governance, including support for judicial, electoral, and legislative processes.

"(2) Programs and activities—

"(A) to encourage the growth of independent associations by strengthening professional, civic, trade union, business, community, and other organizations, and

"(B) to enhance the organizational and leadership skills of the members of such organizations in order to increase citizen participation in democratic processes.

"(3) Programs and activities to increase awareness of internationally recognized human rights (including by increasing the availability of information concerning the status of respect for internationally recognized human rights), improve the effective exercise of those rights, and strengthen respect for the rule of law.

"(4) Programs and activities—

"(A) to support victims of abuses of internationally recognized human rights, including—

"(i) the direct provision of legal services, and

"(ii) the provision of rehabilitation services for victims of torture; and

"(B) to support organizations and institutions seeking to bring to justice those responsible for perpetrating such abuses.

"(5) Programs and activities to support a free and independent press.

"(6) Programs and activities to—

"(A) provide specialized professional training, scholarships, and exchanges for continuing legal education;

"(B) promote the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; and

"(C) increase the availability of legal materials and publications.

"(7) Programs and activities to develop the institutional capacities of legislative bodies.

"(8) Programs and activities to support the revision and modernization of legal codes and procedures, including support for legislative bodies to assist them in accomplishing those ends.

"(c) ELIGIBLE RECIPIENTS OF ASSISTANCE.—Assistance under this section may be furnished to countries and organizations, both public and nongovernmental, including national, regional, and international organizations. A substantial portion of the funds made available each fiscal year to carry out this section shall be used for assistance provided to nongovernmental organizations.

"(d) PROHIBITION RELATING TO ELECTIONS.—Assistance under this section may not be used to influence the outcome of any election in any country.

"(e) LIMITATION ON USE OF CERTAIN FUNDS.—Funds made available for assistance under the Development Fund for Africa may be used under this section only with respect to countries in sub-Saharan Africa.

"SEC. 1222. DEVELOPMENT EDUCATION.

"The President may use funds made available for development assistance, economic

support assistance, or assistance from the Development Fund for Africa to support development education programs, with emphasis on those conducted by private voluntary organizations and cooperatives, in order to assist in the education of United States citizens about developing countries, the development process, and the importance to the United States of developing countries.

"SEC. 1223. STRENGTHENING THE CAPACITY OF NONGOVERNMENTAL ORGANIZATIONS, INCLUDING RESEARCH AND EDUCATIONAL INSTITUTIONS.

"The President may use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa to furnish assistance to nongovernmental organizations, including research and educational institutions, in the United States and abroad for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

"SEC. 1224. MICROENTERPRISE DEVELOPMENT.

"(a) FINDINGS.—The Congress makes the following findings and declarations:

"(1) More than a billion people in the developing world are living in poverty, with incomes of less than $370 a year.

"(2) According to the World Bank, mortality for children under 5 averaged 121 per thousand for all developing countries.

"(3) Nearly 40,000 children die each day from malnutrition and disease.

"(4) Poor people themselves can lead the fight against hunger and poverty through the development of self-sustaining microenterprise projects.

"(5) Women in poverty generally are less educated, have a larger workload, and have less access to economic opportunity than their male counterparts. Directly aiding women in the developing world has a positive effect on family incomes, child nutrition, and health and education.

"(6) Microenterprise development offers the opportunity for the poor to play a central role in undertaking strategies for small scale, self-sustaining businesses that can bring them out of poverty.

"(7) The World Bank estimates that there are over 400,000,000 self-employed poor in the developing world and projects that, by the year 2020, 95 percent of African workers will be employed in the informal sector.

"(8) For many people, lack of credit creates an obstacle to the development of self-sustaining enterprises.

"(9) Projects like the Grameen Bank of Bangladesh, the Badan Kredit Kecamatan in Indonesia, and ADEMI in the Dominican Republic have been successful in promoting credit programs that have lent money directly to the poor. Repayment rates in these programs are 95 percent or higher indicating that it is possible to 'bank on the poor'.

"(10) The Agency for International Development has been a leader in small and microenterprise development in the past 20 years.

"(11) The Congress earmarked funds for fiscal years 1988, 1989, 1990, and 1991 for microenterprise development activities and has called upon the Agency for International Development to take steps to ensure that its microenterprise activities included a credit component designed to reach the poorest sector of the developing world.

"(12) In 1989, the Agency for International Development created the Office of Small and Microenterprise Development within the Bureau for Private Enterprise to lead and coordinate the Agency's microenterprise efforts.

"(13) In March 1990, the Agency for International Development reported that new spending for microenterprise development was $58,800,000 for 1988 and $83,300,000 for 1989 and that the average loan size for the credit component of the program averaged $329 for 1988 and $387 for 1989. However, less than 10 percent of the spending for the 1988 program, and less than 7 percent of the spending for the 1989 program, was for loans of under $300.

"(14) A February 1991 report by the General Accounting Office indicated that data in that March 1990 report was of 'questionable validity' and that the Agency for International Development did not have a system to track detailed information concerning its microenterprise credit activities. Furthermore, the General Accounting Office found that none of the 3 missions that it visited targeted their microenterprise projects specifically to women or to the poorest 20 percent of the population, as recommended by the Congress.

"(15) The Congress recognizes that provision of credit alone may not be sufficient to generate opportunities for successful microenterprise development and that assistance focused in the areas of institutional development, technical assistance, training, and policy reform may also be appropriate for assisting microenterprise development.

"(16) The Agency for International Development has indicated its willingness to explore the idea of holding a series of regional workshops on microenterprise development. The Congress encourages the Agency to include in these workshops opportunities for training Agency personnel and United States and indigenous private voluntary organizations in activities designed to reach the poorest of the poor.

"(b) PURPOSES.—The purposes of this section are—

"(1) to provide for the continuation and expansion of the commitment of the Agency for International Development to microenterprise development;

"(2) to increase the amount of assistance going to credit activities designed to reach the poorest sector in developing countries; and

"(3) to increase the percentage of such credit that goes to women beneficiaries.

"(c) GENERAL AUTHORITY.—The President, acting through the Administrator, is authorized to provide assistance for programs of credit and other assistance for microenterprises in developing countries. In addition to providing financial resources for direct credit activities of indigenous financial intermediaries, assistance under this section may include assistance for institutional development of such intermediaries (including assistance to enable private voluntary organizations to develop the capability to serve as financial intermediaries), technical assistance, training, and policy reform. Microenterprise credit and related activities assisted under this section shall be carried out primarily through those indigenous financial intermediaries and private voluntary organizations that are oriented toward working directly with the poor and women.

"(d) ELIGIBILITY CRITERIA FOR FINANCIAL INTERMEDIARIES.—The mission of the administering agency for this title that is responsible for a country receiving assistance under this section shall establish criteria for determining the financial intermediaries that will receive assistance under this section, taking into account the following:

"(1) The extent to which the recipients of credit from the intermediary lack collateral.

"(2) The extent to which the recipients of credit from the intermediary do not have access to the local formal financial sector.

"(3) The extent to which the recipients of credit from the intermediary have relatively limited amounts of fixed assets.

"(4) The extent to which the recipients of credit from the intermediary are among the poorest people in the country.

"(5) The extent to which interest rates charged by the intermediary on loans reflect the real cost of lending.

"(6) The extent to which the intermediary reaches women as recipients of credit.

"(7) The extent to which the intermediary is oriented toward working directly with the poor and women.

"(e) LOWER TIER FOR POVERTY LENDING ACTIVITIES.—A significant portion of the amount made available each fiscal year to carry out this section shall be used to support direct credit assistance by, and the institutional development of, those financial intermediaries with a primary emphasis on assisting those people living in absolute poverty, especially women.

"(f) FOCUS ON WOMEN.—The Office of Small and Microenterprise Development in the administering agency for this title shall include in its annual action plans a strategy for increasing the access of women in developing countries to credit and other microenterprise development activities, with the goal of increasing to at least 50 percent the percentage of microenterprise credit that goes to women beneficiaries. This strategy shall be developed in consultation with the agency's Women in Development Office.

"(g) FUNDINGS SOURCES.—Funds to carry out this section shall be derived from the following sources:

"(1) Funds available for development assistance.

"(2) Funds available for assistance from the Development Fund for Africa.

"(3) Funds available for economic support assistance.

"(4) Local currency proceeds resulting from the provision of development assistance, assistance from the Development Fund for Africa, or economic support assistance.

"(5) Local currency proceeds available for use under section 306(a) of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624)).

"(6) Local currency proceeds resulting from assistance provided under the Agricultural Trade Development and Assistance Act of 1954 as in effect immediately before the effective date of the amendment made by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(7) Local currency generated under subsection (h).

"(h) AUTHORITY TO GENERATE LOCAL CURRENCIES.—In order to generate local currencies for use in providing assistance under this section, the President is authorized to use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa to provide assistance to the governments of developing countries on a loan basis repayable in local currencies, at a rate of exchange to be negotiated by the President and the foreign government. Such loans shall have a rate of interest and a repayment period determined by the President.

"(i) NONAPPLICABILITY OF CERTAIN LAWS.—Local currencies used under subsection (g)(7) shall not be subject to the requirements of section 1306 of title 31, United States Code,

or other laws governing the use of foreign currencies owned by, owed to, or accruing to the United States.

"(j) FUNDING LEVELS FOR FISCAL YEARS 1992 AND 1993.—

"(1) MINIMUM LEVEL OF ASSISTANCE.—The Administrator shall use not less than $85,000,000 for fiscal year 1992, and not less than $85,000,000 for fiscal year 1993, for microenterprise assistance pursuant to this section.

"(2) ASSISTANCE FOR THE POOREST SECTORS.—

"(A) MINIMUM FUNDING LEVEL.—Of the amounts used pursuant to paragraph (1), not less than $20,000,000 for fiscal year 1992 and not less than $30,000,000 for fiscal year 1993 shall be used to support loans having a purchasing power equal to or less than $300 (in United States dollars).

"(B) INITIAL LOANS.—Of the loans supported pursuant to subparagraph (A), initial loans to microenterprises should, to the maximum extent practicable, have a purchasing power equal to or less than $150 (in United States dollars).

"(C) CRITERIA FOR ATTRIBUTION TO FUNDING REQUIREMENTS.—In addition to amounts made available for direct credit activities involving loans described in subparagraph (A) or (B), amounts used for institutional development of a financial intermediary described in subsection (e) shall be considered to support such loans for purposes of that subparagraph to the same extent as the aggregate amount loaned by such institution represents loans described in that subparagraph.

"(3) USE OF LOCAL CURRENCIES.—In order to meet the funding requirements of this subsection, local currencies described in subsection (g) may be used in lieu of an equivalent amount of dollars.

"(k) MONITORING.—The Administrator shall develop a monitoring system to evaluate the microenterprise development activities of the administering agency for this title, including their effectiveness in reaching the poor and women and their overall impact on economic development in each beneficiary developing country. In developing this system, the Administrator shall consult with the appropriate congressional committees and with appropriate private voluntary organizations.

"(l) REPORTS TO CONGRESS.—The Administrator shall report to the Congress annually on the microenterprise development activities of the administering agency for this title, including the agency's strategy for complying with the minimum funding requirements of subsections (j) (1) and (2).

"SEC. 1225. PRIVATE VOLUNTARY ORGANIZATION ACTIVITIES.

"(a) FINDINGS.—The Congress finds that the participation of rural and urban poor people in the activities to be carried out to promote the basic objectives set forth in section 1102 can be assisted and accelerated in an effective manner through an increase in activities carried out by private voluntary organizations and cooperatives.

"(b) FUNDING.—Of the funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa, not less than $275,400,000 for fiscal year 1992 and not less than $275,400,000 for fiscal year 1993 shall be made available for the activities of private voluntary organizations that promote the basic objectives set forth in section 1102.

"Subchapter C—Other Authorities and Requirements

"SEC. 1241. IMPACT OF DEVELOPMENT ASSISTANCE ON ENVIRONMENT AND NATURAL RESOURCES.

"(a) IMPACT ASSESSMENT.—The President, in implementing programs and projects under this chapter and under chapter 1 of title V (relating to Development Fund for Africa), shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for such programs or projects—

"(1) to prepare and take fully into account an initial environmental examination of every program or project to ensure that environmental considerations are integrated as early as possible into project conception and design and to ensure that each project is environmentally sustainable;

"(2) to prepare and take fully into account an environmental impact statement for any program or project significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

"(3) to prepare and take fully into account an environmental assessment of any proposed program or project significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this section.

"(b) EXCEPTIONS.—The President may establish exceptions from the requirements of this section for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

"SEC. 1242. COST SHARING.

"To ensure local commitment to, and the sustainability of development activities assisted under this chapter and under chapter 1 of title V, the beneficiary country should bear an appropriate share of the costs of the entire program or project with respect to which the assistance is to be furnished. A country may bear such costs on an 'in kind' basis.

"SEC. 1243. ASSISTANCE LIMITED TO ECONOMIC PROGRAMS.

"Development assistance, economic support assistance, and assistance from the Development Fund for Africa shall be available for economic programs and may not be used for military or paramilitary purposes.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"SEC. 1301. ASSISTANCE UNDER SPECIAL ECONOMIC, POLITICAL, AND SECURITY CONDITIONS.

"Under special economic, political, or security conditions, the national interest of the United States may require economic support for countries in amounts that could not be justified under section 1201. In such cases, the President is authorized to furnish assistance to countries and organizations in order to promote economic or political stability. Such assistance shall be furnished, to the maximum extent feasible, consistent with the four basic objectives set forth in section 1102 and the purpose and authorities specified in sections 1201 (c) and (d).

"SEC. 1302. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out section 1301 $3,322,500,000 for fiscal year 1992 and $3,322,500,000 for fiscal year 1993.

"SEC. 1303. PURCHASE OF UNITED STATES GOODS AND SERVICES.

"(a) GENERAL POLICY REGARDING FORMS OF ASSISTANCE.—Assistance under this chapter should be provided principally through commodity import programs, project assistance, sector programs, or the provision of United States goods and services.

"(b) USE OF CASH TRANSFERS FOR UNITED STATES GOODS AND SERVICES.—Assistance may be provided to a country under this chapter as a cash transfer only pursuant to an agreement requiring that the country spend an amount equal to the amount of the cash transfer to purchase United States goods and services. Nothing in this section, however, shall prevent a country from purchasing, with United States cash transfer assistance, goods or services produced in that country. United States goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States. The President shall ensure that purchases of United States goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods that are available in the United States at fair prices for such goods.

"(c) GAO AUDITS.—Each agreement pursuant to which cash transfer assistance is provided under this chapter shall include provisions to ensure that representatives of the Comptroller General have the access to records and personnel necessary to carry out such monitoring and auditing as the Comptroller General deems appropriate.

"(d) EXEMPTIONS.—This section shall not apply to any country—

"(1) that receives cash transfer assistance under this chapter of less than $25,000,000 for a fiscal year;

"(2) that, as of April 1, 1989, was receiving cash transfer assistance under the former authorities of chapter 4 of part II of this Act and has an agreement with the United States under which the country agrees—

"(A) to spend an amount equal to the amount of the cash transfer on the purchase of United States goods and services,

"(B) to carry 50 percent of all bulk shipments of United States grain on 'privately owned United States-flag commercial vessels', to the extent such vessels are available at fair and reasonable rates for such vessels, and

"(C) to purchase United States grain at levels comparable to those purchased in prior years,

except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to those conditions; and

"(3) that, as of the effective date of this section, has an agreement with the United States requiring that the country spend an amount equal to the amount of any cash transfer assistance under this chapter to purchase United States goods and services, except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to that condition.

United States goods purchased pursuant to an agreement described in paragraph (3)

shall be deemed to have been furnished in connection with funds advanced by the United States, and the last sentence of subsection (a) shall apply with respect to such goods.

"(e) WAIVER.—The President may waive the provisions of this section with respect to a country to the extent the President determines that it is important to the national interest to do so. Any such waiver shall be reported to the appropriate congressional committees.

"(f) DEFINITION OF UNITED STATES GOODS.—For purposes of this section, the term 'United States goods' means goods (including components) and commodities (including agricultural commodities) grown, processed, produced, or manufactured in the United States.

"CHAPTER 4—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 1401. AUTHORITY TO PROVIDE ASSISTANCE.

"The President is authorized to make voluntary contributions on a grant basis to international organizations, and to programs administered by international organizations, in order to promote the four basic objectives set forth in section 1102 or to otherwise support such organizations and programs.

"SEC. 1402. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the President to carry out this chapter, in addition to funds otherwise available for such purposes, $300,612,000 for fiscal year 1992 and $318,712,000 for fiscal year 1993.

"(b) EARMARKS.—Of the amounts authorized to be appropriated by this section—

"(1) $125,000,000 for fiscal year 1992 and $135,000,000 for fiscal year 1993 shall be for the United Nations Development Program;

"(2) $83,000,000 for each of the fiscal years 1992 and 1993 shall be for the United Nations Children's Fund;

"(3) $18,000,000 for fiscal year 1992 and $25,000,000 for fiscal year 1993 shall be for the United Nations Environmental Program;

"(4) $18,362,000 for each of the fiscal years 1992 and 1993 shall be for the International Fund for Agricultural Development;

"(5) $4,000,000 for each of the fiscal years 1992 and 1993 shall be for the Special Program for Africa of the International Fund for Agricultural Development;

"(6) $500,000 for fiscal year 1992 and $1,000,000 for fiscal year 1993 shall be for the United Nations University; and

"(7) $600,000 for fiscal year 1993 shall be for an additional contribution to the Organization of American States for the purpose of establishing an electronic network for the exchange of information on science and technology among professors, researchers, and scientists at universities in the countries that are members of the Organization of American States.

"SEC. 1403. CONDITION ON CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY.

"Funds authorized to be appropriated by section 1402(a) may be contributed to the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the appropriate congressional committees) that Israel is not being denied its right to participate in the activities of that Agency.

"SEC. 1404. WITHHOLDING OF UNITED STATES PROPORTIONATE SHARE FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

"(a) REQUIREMENT TO WITHHOLD.—Funds authorized to be appropriated by this chapter shall not be available for the United States proportionate share for programs for countries or organizations or for projects described in subsection (d). This prohibition applies notwithstanding any provision of law that earmarks funds under this chapter for a particular international organization or program.

"(b) USE OF FUNDS WITHHELD.—Funds returned or not made available for programs or projects pursuant to subsection (a) shall remain available until expended for use under this chapter.

"(c) OBLIGATIONS.—The President—

"(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

"(2) shall report to the appropriate congressional committees the amounts of funds expended by each such organization for programs or projects described in subsection (d) and the amount contributed by the United States to each such organization.

"(d) DESIGNATION OF PROGRAMS AND PROJECTS.—Subsection (a) applies with respect to programs for Cuba, Iran, Libya, or the Palestine Liberation Organization and to projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it.

"SEC. 1405. RESTRICTION ON CONTRIBUTIONS TO UNITED NATIONS RELIEF AND WORKS AGENCY.

"The United States may not make any contribution to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that that Agency take all possible measures to assure that no part of the United States contribution is used to furnish assistance to any refugee—

"(1) who is receiving military training as a member of the Palestine Liberation Organization or any other guerrilla type organization; or

"(2) who has engaged in any act of terrorism.

"SEC. 1406. REPORTS ON INTERNATIONAL ORGANIZATIONS.

"(a) SUBMISSION DATE FOR ANNUAL REPORT.—The annual reports to the Congress under section 2 of the Act of September 21, 1950 (22 U.S.C. 262a), shall be submitted within 9 months after the end of the fiscal year to which they relate.

"(b) ANNUAL REPORTS ON VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS BY ALL UNITED STATES GOVERNMENT AGENCIES.—

"(1) REQUIREMENT FOR REPORTS.—Not later than January 31 each year, the President shall submit a report to the Congress listing all voluntary contributions by the United States Government to international organizations during the preceding fiscal year.

"(2) INFORMATION TO BE INCLUDED.—Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis.

"(3) OBLIGATION OF EACH AGENCY.—In order to facilitate the preparation of the report required by paragraph (1), the head of any Government agency that makes a voluntary contribution to any international organization shall promptly report that contribution to the Director of the Office of Management and Budget.

"(4) DEFINITION.—As used in this subsection, the term 'contribution' means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel) or commodities, equipment, supplies, or other material.

"SEC. 1407. AUDITING OF ACCOUNTS OF INTERNATIONAL ORGANIZATIONS.

"(a) UNITED NATIONS ORGANIZATIONS.—In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President should (acting through the United States representatives to such organizations), propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits of the programs and activities of such organizations.

"(b) MULTILATERAL DEVELOPMENT BANKS.—

"(1) IN GENERAL.—In the case of each of the organizations specified in paragraph (2), the President should, acting through the United States representative to such organization, propose and actively seek the establishment by the governing authorities of that organization of professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits of the programs and activities of that organization.

"(2) MDBS SUBJECT TO PARAGRAPH (1).—The organizations to which paragraph (1) applies are the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Inter-American Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank.

"SEC. 1408. INTEGRATION OF WOMEN.

"The President is requested to instruct each representative of the United States to each international organization of which the United States is a member to carry out his or her duties with respect to such organization in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organization, thereby improving the status of women.

"CHAPTER 5—GUARANTEE PROGRAMS

"SEC. 1501. HOUSING AND URBAN DEVELOPMENT GUARANTEE PROGRAM.

"(a) FINDINGS AND POLICY.—The Congress finds that—

"(1) shelter and other essential urban development services are among the most fundamental of human needs;

"(2) while most financing for urban services must come from domestic resources, carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing urban services can be financially viable;

"(3) particular attention should be given to programs that will support pilot projects for low-cost shelter and other urban services or that will have a maximum demonstration impact on local institutions and national policy; and

"(4) the long run goal of all such programs should be to develop domestic capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective programs and policies relating to low-cost shelter and other urban services.

"(b) GUARANTEE AUTHORITY.—To carry out the policies expressed in subsection (a), the President is authorized to issue guarantees to eligible investors assuring against losses incurred in connection with loans made for projects that meet the criteria set forth in subsection (a) and that promote the four basic objectives set forth in section 1102. Each guarantee issued under this subsection shall guarantee 100 percent of the principal and interest payable on such loans.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to—

"(1) the terms and conditions on which guarantees will be issued under this section; and

"(2) the eligibility of lenders.

"(d) FOCUS OF ACTIVITIES.—Activities carried out under this section shall be directed to the shelter and urban services needs of the poor, including—

"(1) projects that provide—

"(A) improved home sites to poor families on which to build shelter, and

"(B) related services;

"(2) projects comprised of expandable core shelter units on serviced sites;

"(3) slum upgrading projects designed to conserve and improve existing shelter;

"(4) shelter projects for low income people designed for demonstration or institution building purposes;

"(5) community facilities and services in support of projects authorized under this section to improve urban services; and

"(6) other urban services of particular importance to the needs of the poor.

"(e) INTEREST RATE ON GUARANTEED INVESTMENTS.—In the case of any loan investment guaranteed under this section, the President shall prescribe the maximum rate of interest allowable to the eligible investor. The maximum allowable rate of interest under this subsection shall be prescribed by the President as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the President may amend such rate at his discretion, consistent with the provisions of this subsection.

"(f) LIMITATION ON GUARANTEES FOR EACH COUNTRY.—The face value of guarantees issued under this section in any fiscal year with respect to any country may not exceed $50,000,000.

"(g) CEILING ON AVERAGE FACE VALUE.—The average face value of guarantees issued under this section in any fiscal year may not exceed $25,000,000.

"(h) GUARANTEE CEILING.—The total principal amount of guarantees issued under this section (or under the former guarantee authority of section 222 of this Act or predecessor housing guarantee authorities) that are outstanding at any one time may not exceed $3,400,000,000.

"(i) MAINTENANCE OF PROGRAM LEVEL.—The principal amount of guarantees issued under this section for each fiscal year shall be comparable to the total principal amount of such guarantees issued for fiscal year 1984, subject to dollar limitations on the issuance of guarantees under this section that are contained in subsection (h) and subject to subsection (j).

"(j) APPROPRIATIONS ACTION REQUIRED.—New credit authority provided for in this section may be exercised only to such extent or in such amount as is provided in advance in an appropriation Act.

"(k) CERTAIN LOSSES NOT COVERED BY GUARANTEES.—No payment may be made under any guarantee issued under this section (or the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(l) FEES TO BE CHARGED.—A fee shall be charged for each guarantee issued under this section in an amount to be determined by the Administrator. In the event the fee to be charged for such type guarantee is reduced, fees to be paid under existing contracts for the same type of guarantee may be similarly reduced.

"(m) USE OF FEES.—All fees collected in connection with guarantees issued under this section shall be available to offset the cost of guarantee obligations under this section.

"(n) FINANCING ACCOUNT.—All of the fees referred to in this section, together with earnings on those fees and other income arising from guarantee operations under this section, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes specified in subsection (m).

"(o) DISCHARGE OF LIABILITIES.—Any payments made to discharge liabilities under guarantees issued under this section shall be paid—

"(1) first, out of fees referred to in subsection (m); and

"(2) then, out of funds made available pursuant to subsection (q).

"(p) FULL FAITH AND CREDIT.—All guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(q) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR GUARANTEE OBLIGATIONS.—There are authorized to be appropriated to the President not more than $2,000,000 for fiscal year 1992 and not more than $8,100,000 for fiscal year 1993 to pay the cost of guarantee obligations under this section with a face value of $150,000,000 for each such fiscal year. Funds made available under this paragraph may be used only after all fees referred to in subsection (m) have been used.

"(2) FOR ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the President not more than $8,500,000 for each of the fiscal years 1992 and 1993 for administrative expenses necessary to carry out this section.

"(r) ELIGIBLE INVESTORS.—As used in this section, the term 'eligible investor' has the same meaning that term is given in section 3211(3).

"(s) EXPIRATION OF AUTHORITY.—The authority of this section shall continue through September 30, 1993.

"(t) GUARANTEES UNDER FORMER AUTHORITIES.—Guarantees committed, authorized, or outstanding under the guarantee authorities formerly contained in section 222 or 222A of this Act (or predecessor guarantee authorities) shall continue subject to provisions of law originally applicable to those guarantees.

"SEC. 1502. PRIVATE SECTOR GUARANTEE PROGRAM.

"(a) FINDINGS AND POLICY.—The Congress finds and declares that—

"(1) the development of private enterprise is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system;

"(2) it is, therefore, in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process; and

"(3) the support of private enterprise is best served by programs providing credit, training, and technical assistance in coordination with policy reform efforts.

"(b) ACTIVITIES THAT MAY BE SUPPORTED.—Assistance under this section may be provided in developing countries only to support financially viable private sector activities that are consistent with the four basic objectives set forth in section 1102 and that meet one or both of the following criteria:

"(1) SMALL BUSINESS AND CAPITAL MARKETS.—The activity addresses capital and credit market imperfections and assists financial institutions in meeting the financial needs of the private sector. Such activity shall be primarily directed toward making available to small business enterprises and cooperatives necessary credit, training, and support services that are not otherwise available to them.

"(2) UNITED STATES BUSINESS.—The activity engages the United States private sector in projects to meet the needs of developing countries.

"(c) AUTHORITY.—

"(1) AUTHORITY.—To carry out the policy set forth in subsection (a) and the activities authorized in subsection (b), the President is authorized to issue guarantees assuring against losses incurred in connection with loans for activities that meet the requirements of subsection (b).

"(2) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(3) TERMS AND CONDITIONS.—Unless the President determines otherwise, the following shall apply:

"(A) The aggregate amount of all guarantees that are provided under this section for a project may not exceed 50 percent of the total cost of the project, or $6,000,000, whichever amount is less.

"(B) The term of any such guarantee may not exceed 10 years.

"(C) As a condition to receiving a guarantee or guarantees for loans to small business enterprises and cooperatives authorized under subsection (b)(1)—

"(i) the lender shall agree to reduce its collateral requirements for loans so guaranteed, to the maximum extent possible;

"(ii) loans so guaranteed shall be to new borrowers or, if to an existing customer of the lender, shall be additional credit and may not be solely a renewal or extension of an existing loan;

"(iii) the maximum amount of any such guaranteed loan may not exceed $325,000 for a recipient that is a sole proprietor, or, if the recipient is an enterprise other than a sole proprietor, $325,000 for each co-owner, shareholder, partner, cooperative member, or other owner of the enterprise; and

"(iv) the administering agency shall work with participating lenders to develop training and technical assistance programs in cash flow analysis and lending to encourage such lenders to reduce, to the maximum extent practicable, their collateral requirements for loans guaranteed under this subparagraph.

The limitation set forth in clause (iii) shall apply for at least 85 percent of all individual beneficiaries of loans guaranteed under this section.

"(D) The President shall maintain an information system that contains operating financial data relating to loans guaranteed under this section (and any subloans made from such loans), and the projects for which the loans were made, that describes all beneficiaries of each such project, and that tracks the developmental impact of each such project, including the effect on employment, the gender of the loan recipients, and loan collateral practices. In addition, the President shall provide to the Congress, by January 31 of each year, a report that describes in detail each project for which loans guaranteed under this section are made, and includes the information referred to in the preceding sentence with respect to such project.

"(E) Not more than 20 percent of the total amount of funds loaned and contingent liabilities incurred under this section may support projects in any one country.

"(F) In determining whether an enterprise is a small business enterprise, the President shall take into account the relevant definition used by the host country government, the International Bank for Reconstruction and Development, and other international organizations.

"(4) ENFORCEABILITY.—Any guarantee issued under this section shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying obligation as contracted qualifies for such guarantee. Except for fraud and material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(5) DENOMINATION OF LIABILITY.—The losses guaranteed under this subsection may be in dollars or other currencies. In the case of losses guaranteed in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(6) DISCHARGE OF LIABILITIES.—Any payments made to discharge liabilities under guarantees issued under this section shall be paid—

"(A) first, out of fees as provided in paragraph (8); and

"(B) then, out of funds made available pursuant to subsection (d).

"(7) PILOT PROGRAM FOR LIMITED DIRECT LOANS.—On a limited basis, the President is authorized to make direct loans, and charge interest therefor, to support activities authorized in subsection (b), under the following conditions:

"(A) The amount of any individual direct loan for a project may not exceed 50 percent of the total cost of the project or $3,000,000, whichever amount is less.

"(B) The aggregate amount of all such direct loans issued in any fiscal year may not exceed $10,000,000.

"(C) The term of any such loan shall not exceed 10 years.

"(D) Notification and opportunity for consultation shall be provided, at least 30 days in advance of the obligation of any funds for such direct loans in any fiscal year, to the appropriate congressional committees. Any such committee may waive such notification and opportunity for consultation with respect to that committee.

"(8) FEES.—

"(A) IN GENERAL.—A fee shall be charged for each guarantee and loan issued under this section in an amount to be determined by the President. In the event that the fee to be charged for such guarantees or loans is reduced, fees to be paid under existing contracts for such guarantees or loans (as the case may be) may be similarly reduced.

"(B) FINANCING ACCOUNT.—All fees collected under this paragraph shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account.

"(C) USE OF FEES.—Amounts in the financing account maintained under subparagraph (B) shall be available to offset the cost of guarantee obligations and liabilities on loans issued under this section.

"(d) APPROPRIATIONS REQUIREMENT.—Direct loan obligations may be entered into under this section, and guarantee commitments may be issued under this section, only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

"(e) PROGRAM CEILING.—The level of activity under this section may not exceed—

"(1) $10,000,000 in loans in each of the fiscal years 1992 and 1993; and

"(2) $57,000,000 in contingent liability for guarantees in fiscal year 1992 and $75,000,000 in contingent liability for guarantees in fiscal year 1993.

"(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the President for each of the fiscal years 1992 and 1993 $1,500,000 for administrative expenses to carry out this section.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"SEC. 1601. STATEMENT OF POLICIES.

"(a) HUMANITARIAN CONCERNS AND TRADITIONS OF THE AMERICAN PEOPLE.—The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is a longstanding tradition and an important expression of the humanitarian interest of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

"(b) REACHING THOSE MOST IN NEED.—In carrying out this chapter, the President shall insure that, to the greatest extent possible, the assistance provided by the United States reaches those most in need of relief and rehabilitation as a result of natural and manmade disasters.

"SEC. 1602. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) IN GENERAL.—The President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization for international disaster relief and rehabilitation. Such assistance may include assistance relating to disaster preparedness, prevention, and mitigation and to the prediction of, and contingency planning for, natural disasters abroad.

"(b) NONAPPLICABILITY OF OTHER PROVISIONS.—Assistance may be furnished under this chapter notwithstanding any other provision of this or any other Act.

"SEC. 1603. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter, $40,000,000 for fiscal year 1992 and $40,000,000 for fiscal year 1993.

"SEC. 1604. BORROWING AUTHORITY.

"(a) AUTHORITY.—In addition to amounts otherwise available to carry out this chapter, up to $100,000,000 in any fiscal year may be obligated against appropriations described in subsection (b) for use in providing assistance in accordance with the authorities and general policies of this chapter.

"(b) SOURCES OF FUNDS.—The appropriations referred to in subsection (a) are any appropriations to carry out this Act, without regard to whether the funds are earmarked in this or any other Act. In any fiscal year, the sum of the amount obligated under this section against appropriations for development assistance and the amount obligated under this section against appropriations for assistance from the Development Fund for Africa may not exceed 30 percent of the total amount obligated under this section.

"(c) REIMBURSEMENT.—Amounts subsequently appropriated to carry out this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this section with respect to that disaster.

"CHAPTER 7—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"SEC. 1701. AUTHORITY TO PROVIDE ASSISTANCE.

"In order to promote the four basic objectives set forth in section 1102, the President is authorized to furnish assistance to—

"(1) schools and libraries, outside the United States, that are founded or sponsored by United States citizens and serve as study and demonstration centers for ideas and practices of the United States, and

"(2) hospital centers for medical education and research, outside the United States, that are founded or sponsored by United States citizens.

"SEC. 1702. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 1701, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1992 and $35,000,000 for fiscal year 1993.

"Subchapter B—Debt for Development

"SEC. 1721. DEBT EXCHANGE.

"(a) AUTHORITY.—In order to promote the four basic objectives set in section 1102, the President may use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa for grants to and contracts with nongovernmental organizations to enable those organizations to—

"(1) purchase debt obligations owed by a developing country to any commercial lending institution or other private party; and

"(2) cancel such debt obligation, subject to the approval of the President, to the extent that such country makes available assets or policy commitments to promote the four basic objectives set forth in section 1102.

"(b) INTEREST RETENTION.—A grantee or contractor (or any subgrantee or subcontractor) of the grants or contracts referred to in subsection (a) may retain, notwithstanding any other provision of law, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-development or debt-for-environment purchase or exchange pending the disbursement of such proceeds and interest for the purposes for which assistance was provided to such party, which may include the establishment of an endowment, the income of which is used for such purposes.

"CHAPTER 8—REIMBURSABLE PROGRAMS

"SEC. 1801. AUTHORITY TO CONDUCT REIMBURSABLE PROGRAMS.

"(a) GENERAL AUTHORITY.—Whenever the President considers it consistent with and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and private voluntary organizations registered with and approved by the administering agency.

"(b) PERSONAL SERVICE CONTRACTS.—When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government in a manner otherwise permitted by law (or Office of Management and Budget Circular A-76 or any successor circular) who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(c) LIMITATIONS ON ASSISTANCE NOT APPLICABLE.—Limitations in this or any other Act on assistance do not apply with respect to this section.

"SEC. 1802. USE OF PAYMENTS.

"Advances and reimbursements received under section 1801 may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available until expended.

"CHAPTER 9—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"SEC. 1901. AUTHORIZATIONS OF APPROPRIATIONS FOR OPERATING EXPENSES GENERALLY.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $483,300,000 for fiscal year 1992 and $483,300,000 for fiscal year 1993 for necessary operating expenses of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

"SEC. 1902. AUTHORIZATIONS OF APPROPRIATIONS FOR THE OPERATING EXPENSES OF THE INSPECTOR GENERAL.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $37,739,000 for fiscal year 1992 and $37,739,000 for fiscal year 1993 for necessary operating expenses of the Office of the Inspector General of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such office.

"SEC. 1903. ADDITIONAL FUNDS FOR OPERATING EXPENSES.

"(a) AUTHORITY TO USE PROGRAM FUNDS.—Amounts authorized to be appropriated for any fiscal year for development assistance, economic support assistance, or assistance from the Development Fund for Africa may be used to carry out section 1901 and section 1902.

"(b) ADDITIONAL FUNDS FOR THE INSPECTOR GENERAL.—The Administrator may make available to the Inspector General of the administering agency, upon the request of the Inspector General, funds made available pursuant to section 1901 or subsection (a) for payment of expenses described in paragraph (1) of section 1902.

"(c) LIMITATION.—The authorities of this section may not be used to increase the amount available for a fiscal year to carry out section 1901 or section 1902 by more than 5 percent of the amount appropriated to carry out that section for that fiscal year.

"Subchapter B—Evaluation

"SEC. 1921. EVALUATION AND ACCOUNTABILITY.

"(a) NEED FOR EVALUATION.—In order to effectively and responsibly manage the resources with which it is provided, the administering agency for this title must have a capacity to evaluate objectively the extent of its progress in achieving development results and to derive lessons from its development experience.

"(b) ACTIONS TO BE TAKEN.—In furtherance of subsection (a), the President shall establish a program performance evaluation capacity with the following functions:

"(1) To develop a program performance information system to afford agency managers a means for monitoring achievement of impact and interim performance of the agency's major programs.

"(2) To prepare and disseminate objective and periodic reports on the agency's progress in meeting stated development objectives for major assistance categories and recipient countries, regions, sectors, and policies.

"(3) To strengthen, through training and other means, the use of evaluation as a management tool, by both the agency and its counterparts in countries receiving assistance, in the planning, designing, and implementation of foreign assistance projects and programs.

"(4) To coordinate with the Inspector General of the agency so as to ensure appropriate complementarity of efforts, recognizing that—

"(A) it is the responsibility of the agency to direct a program of independent evaluation of its programs and policies, and the operational and management systems that affect the development impact of those programs and policies; and

"(B) it is the responsibility of the Inspector General to conduct regular and comprehensive assessments and audit of financial management and administrative systems, including the adequacy of the systems for monitoring and evaluating agency projects and programs.

"(c) ROLE OF EVALUATION.—In recognition of the importance of evaluation in determining, among other things, the extent to which programs are promoting the basic objectives set forth in section 1102, the President shall take such steps as the President deems appropriate to ensure that the administering agency is—

"(1) planning, implementing, and disseminating programmatic evaluations of the economic assistance programs under this title that are administered by the agency;

"(2) designing and managing technical assistance and support programs to enhance the integrity and quality of all project and program evaluation work done by such agency;

"(3) maintaining and making accessible the agency's data base on project and program experience, including both the historical record and measures of impact and performance;

"(4) coordinating information exchange on evaluation priorities, findings, and methods with other donor countries and organizations; and

"(5) ensuring the quality, objectivity, and independence of the evaluation by such measures as external review of findings, use of outside governmental and nongovernmental expertise, and other measures to protect against potential conflict of interest.

"(d) ACCOUNTABILITY.—The President shall prepare an annual report, which shall be submitted to the Congress as a separate part of the annual congressional presentation documents required by section 6301. This report shall include the following:

"(1) An assessment of progress toward the achievement of the four basic objectives set forth in section 1102, based on the findings of evaluation studies conducted by the administering agency and on such other empirical analyses as may be appropriate.

"(2) An analysis, on a country-by-country basis (with each country receiving economic assistance under this title or chapter 1 or 2 of title V being included at least once every 5 years), of the impact on economic development in each country during the preceding 3 to 5 fiscal years of United States economic assistance programs, with a discussion of the United States interests that were served by the assistance. For each such country, the analysis shall—

"(A) to the extent possible, be done on a sector-by-sector basis and identify trends within each sector;

"(B) identify any economic policy reforms that were promoted by the assistance;

"(C) describe, in quantified terms to the extent practicable, the specific objectives the United States sought to achieve in providing economic assistance and specify the extent to which those objectives were not achieved;

"(D) describe the amount and nature of economic assistance provided by other major donors during the preceding 3 to 5 fiscal years, set forth by the development sector to the extent possible;

"(E) discuss the commitment of the host government to addressing the country's needs in each development sector, including, to the extent possible, a description of the resources devoted by that government to each development sector during the preceding 3 to 5 fiscal years.

"Subchapter C—Cooperation with Nongovernmental Sector

"SEC. 1941. CENTER FOR UNIVERSITY COOPERATION IN DEVELOPMENT.

"(a) FINDINGS.—The Congress finds that—

"(1) United States public and private institutions of higher education can contribute significantly to enhancing the development of developing countries;

"(2) sustained participation of United States institutions of higher education in

the economic development programs of these countries and the building of indigenous university systems that support the educational, research, and service needs of their societies is vital to their achieving sustainable economic growth and open democratic political systems; and

"(3) at the same time, the participation of United States institutions of higher education in these international development efforts also supports the internationalization of those institutions by strengthening their faculty and the programs available to their students, and enhancing the quality and relevance of their research and extension efforts.

"(b) ESTABLISHMENT OF A CENTER.—The President shall maintain within the administering agency for this title a Center for University Cooperation in Development (hereinafter in this section referred to as the 'Center'). The Center shall seek to promote and strengthen mutually beneficial development cooperation and partnerships between such agency, United States institutions of higher education that are engaged in education, research, and public service programs relevant to the development needs of developing countries, and institutions of higher education, research, and extension in those developing countries. The Center shall—

"(1) develop basic policies, procedures, and criteria for education, research, and development programs involving United States institutions of higher education and developing country institutions;

"(2) encourage and support the development of collaborative programs that strengthen the capacity of United States institutions of higher education to undertake sustainable, long-term partnerships with institutions in developing countries and that also deepen the commitment of United States institutions of higher education to internationalization and development cooperation;

"(3) encourage and support the development of cooperative programs between United States institutions of higher education and the private sector that contribute to the sustainable development of developing countries;

"(4) undertake specialized programs that seek to bring the unique capabilities of historically black colleges and universities to bear on the development problems of developing countries and strengthen their capacity to enter into sustainable partnerships with institutions in developing countries;

"(5) facilitate access by developing countries and the administering agency to the resources of United States institutions of higher education and the participation of these institutions in the development programs of developing countries; and

"(6) undertake studies and analyses and specialized reviews necessary to the accomplishment of paragraphs (1) through (5).

"(c) SOURCE OF FUNDS.—To carry out this section, the President may make available such funds as he determines from funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa.

"SEC. 1942. CENTER FOR VOLUNTARY COOPERATION IN DEVELOPMENT.

"(a) ESTABLISHMENT.—The President shall maintain within the administering agency for this title a Center for Voluntary Cooperation in Development (hereinafter in this section referred to as the 'Center').

"(b) PURPOSE.—The purpose of the Center shall be to strengthen the partnership for development among the United States Government and United States private voluntary organizations, cooperatives, and credit unions that are engaged in activities that are relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(c) FUNCTIONS.—The Center shall—

"(1) participate in the development of policies, procedures, and criteria for all programs of the administering agency that involve private voluntary organizations, cooperatives, and credit unions;

"(2) under the general policy guidance of the Administrator, develop program policies, procedures, and funding criteria for support by the administering agency of worldwide activities of such entities; and

"(3) administer comprehensive grant programs in support of long-term, worldwide programs of such entities.

"(d) SOURCE OF FUNDS.—To carry out this section, the President may make available such funds as he determines from funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa.

"SEC. 1943. ADVISORY COMMITTEE ON VOLUNTARY COOPERATION IN DEVELOPMENT.

"The Administrator shall establish a permanent Advisory Committee on Voluntary Cooperation in Development, whose membership shall consist primarily of representatives from private voluntary organizations, cooperatives, and credit unions that have experience working in developing countries. The function of the Advisory Committee shall be to advise the Administrator regarding programs that the administering agency carries out with or through private voluntary organizations, cooperatives, and credit unions.".

The CHAIRMAN pro tempore. Are there any amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. HALL of Ohio: (1) Page 22, line 7, after "promoted" insert "through research and".

Page 22, line 17, before the semicolon, insert ", maintenance of soil structure and fertility, and minimization of soil erosion and soil and water contamination".

Page 22, after line 17, insert the following new clause (ii), and redesignated existing clauses (ii) through (viii) as clauses (iii) through (ix), respectively:

"(ii) adoption of appropriate use of fertilizer and pesticides;

(2) Page 40, line 14, strike out "AND" and after "DEFICIENCY" insert ", AND BASIC EDUCATION"; and page 41, after line 20, insert the following:

"(c) BASIC EDUCATION.—Of the aggregate amounts made available for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $135,000,000 for fiscal year 1992 and not less than $175,000,000 for fiscal year 1993 shall be available only for programs in support of basic education, including early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults.

(3) Page 41, after line 9, insert the following:

"(3) CHILD SURVIVAL ACTIVITIES.—Of the aggregate amounts made available for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $275,000,000 for fiscal year 1992 and not less than $335,000,000 for fiscal year 1993 shall be available only for activities described in section 1201(d)(4), relating to child survival activities.

(4) Page 415, after line 16, insert the following:

"(4) A detailed description of United States contributions to the achievement of the goals and strategies enunciated in the World Declaration on the Survival, Protection and Development of Children; the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children; the World Declaration on Education for All; and the Framework for Action to Meet Basic Learning Needs; including a detailed description of the funding provided for child survival activities and for basic education under United States foreign assistance programs for the current fiscal year and the preceding fiscal year, as well as planned funding levels for at least the next 2 fiscal years.

(5) Page 510, line 10, after "709," insert "section 712,".

Page 718, strike out lines 18 and 19 and insert in lieu thereof the following:

SEC. 1106. FOOD AS A HUMAN RIGHT.

(a) FINDINGS.—The Congress finds that—

(1) the right to food remains an unfulfilled promise for hundreds of millions of people in many countries around the world; and

(2) an international convention on the right to food could be a useful tool in increasing international respect for the right to food, especially among governments and armed oppostion groups.

(b) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

(1) IN GENERAL.—The United States shall, in accordance with its international obligations and in keeping with the longstanding humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF THE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.—The responsibilities of the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(c) UNITED NATIONS CONVENTION ON THE RIGHT TO FOOD.—

(By unanimous consent, Mr. HALL of Ohio was allowed to proceed for 1 additional minute.)

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 6 minutes.

Mr. HALL of Ohio. Mr. Chairman, I would like first to commend the Foreign Affairs Committee for its work in producing an excellent piece of legislation. I am particularly appreciative of the outstanding leadership of the

chairman, the gentleman from Florida [Mr. FASCELL], and I have been honored to work with him on these amendments. I would also like to thank the gentleman from New York, a senior member both of the Foreign Affairs Committee and of the Hunger Committee, Mr. GILMAN, for his help in offering Hunger Committee amendments concerning the United Nations. These amendments have been accepted by the Foreign Affairs Committee and are already part of this bill.

I would also like to express my deep appreciation to my colleague from Missouri, Mr. EMERSON, the ranking minority member of the Hunger Committee, for his excellent work on the Hunger Committee and for his support for these important Hunger Committee amendments to the foreign aid bill. The gentleman from Nebraska [Mr. BEREUTER] and the gentleman from New Jersey [Mr. SMITH], both members of the Foreign Affairs Committee and Select Committee on Hunger have also provided greatly valued leadership and support on key areas covered in these amendments.

These amendmentrs I now offer en bloc on behalf of the Hunger Committee draw on key provisions in H.R. 2258, the freedom from want omnibus antihunger legislation which I introduced with my colleague BILL EMERSON earlier this year. This bill takes its name from one of the "Four Freedoms" made famous by President Franklin Roosevelt 50 years ago.

I have five amendments grouped and offered en bloc. The first expands on language currently in the foreign aid bill on sustainable resource management by adding specific language relating to agriculture. The specific concepts include the importance of maintaining soil structure and fertility, minimizing soil erosion and contamination of soil and water, and adopting appropriate use of fertilizer and pesticides. It also calls for more research on these important areas.

Nothing we do in foreign assistance is more important, in my opinion, than the following two simple programs: saving children's lives through simple child survival activities like immunization, oral rehydration, breastfeeding, and other lifesaving actions for mother and child; and educating the children—after we help them survive—so they can acquire the basic skills they need to function in society, and helping illiterate adults to finally obtain the power which comes when they learn to read, write, and add.

My second amendment earmarks $275 million in fiscal year 1992 and $335 million in fiscal year 1993 for child survival activities. The third amendment earmarks $135 million in fiscal year 1992 and $175 million in fiscal year 1993 for basic education activities. I define basic education to include early childhood education, primary education, teacher training, and other activities to support early childhood and primary education, and literacy training of adults. This is the definition adopted by the world, including the United States, at last year's World Conference on Education for All.

Money for both of these areas can come from three different accounts: Development Assistance, the Development Fund for Africa, and Economic Support Assistance. These earmarks only require AID to spend 5 percent of its funds from these three accounts on children and 21 percent on basic education.

These simple tools are priceless in the modern world. Without them, people are condemned to poverty. With them, they have a chance to escape from poverty.

Unfortunately, without explicit congressional earmarking, these activities are not growing the way they should. AID regularly proposes to cut funding for children. For example, in 1989 AID spent more than $200 million on child survival activities. But in 1990, the total dropped by nearly 10 percent to only $185 million. I find this impossible to understand. We know these programs work—they save lives every day.

AID proposes to cut funding for children in Africa by 20 percent next year—from $50 million this year to about $40 million next year. The Foreign Affairs Committee, with the wise guidance of its chairman, Mr. FASCELL, and the chairman of the Africa Subcommittee, Mr. DYMALLY, has added $200 million specifically for development in Africa next year. I believe that some of this $200 million should be used by AID to increase—not decrease—the amount they will spend on keeping African children alive and healthy.

I would also like to add that in order to carry out these programs effectively, AID should hire additional staff as health and nutrition officers as well as education officers.

The fourth provision adds a requirement to the yearly AID congressional presentation that AID present a plan on child survival and basic education, including what AID has accomplished in the past 2 years, as well as their plans for the next 2 years. I attended the World Summit for Children held at the United Nations last year. It was the largest gathering of heads of state ever. President Bush came and endorsed the goals of the summit. But where is his plan for reducing childhood disease and death? My hope is that this amendment will finally push the administration to come to us with a credible, multiyear, forward looking plan. I believe the United States must take the lead in the global effort to end unnecessary child death and suffering. The President should send us a plan as part of next year's congressional presentation.

Finally, I have included a provision I am particularly excited about, which champions the right to food in U.S. law. This expands upon and complements the provisions already in the bill, offered by the gentleman from New York [Mr. GILMAN] on behalf of the Hunger Committee. The provisions already in the bill call on the United States to promote a U.N. Convention on the Right to Food and Humanitarian Assistance and to take the lead in developing a plan to strengthen the U.N. response to emergencies.

The new provision added in my final amendment rounds out the two already included by making it clear that promoting the right to food must be part of U.S. foreign policy. It calls on the United States to promote increased respect for the rights to food and to medical care. These provisions, taken together, have the potential to dramatically improve the protection of the right to food of people around the world. Unfortunately, too many governments are still all too willing to use food as a weapon. Recent events have produced ample evidence of the need for strengthening international law in these areas.

In total, my en bloc amendments will, if adopted, help lead to a world with healthier, better educated children, where more people live free from want. That is the kind of world I think I am here in the Congress to work for. I hope you agree with me and will support this amendment.

Mr. EMERSON. Mr. Chairman, I rise in support of the amendments en bloc offered by the distinguished gentleman from Ohio, the chairman of the Select Committee on Hunger, Mr. HALL, to advance the vital humanitarian initiatives contained in the amendments.

This amendment recognizes the basic right of all people to fundamental food and medical assistance, assistance that they need to live, especially in times of conflict.

The famine facing the people today in the Horn of Africa is but one reminder that access to food and basic medical supplies continues to be an instrument of policy for morally bankrupt governments and some rebel forces. Honoring the right of innocent people to adequate food and humanitarian assistance should be a priority of the international community.

Part of addressing the structure of an emerging new world order must include planning for the future by investing in the health and the education of the world's children. This amendment promotes crucial programs that have helped millions of children in the developing world make it beyond their fifth birthday and could save the lives of many more.

□ 1100

By addressing basic education, we give people the tools to become produc-

tive members of the world community. A vote for this amendment is a vote for survival, for basic nourishment, for health, for education, for children, and for life.

I urge the adoption of this amendment.

Mr. BERUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hall amendments.

Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Ohio [Mr. HALL]. I rise in that capacity as a member of the Select Committee on Hunger and as a member of the Committee on Foreign Affairs.

I commend the chairman, the ranking member of the Select Committee on Hunger, the distinguished gentleman from Missouri [Mr. EMERSON], and the many people who the chairman has already enumerated on that committee and elsewhere who have supported the chairman in crafting this legislation. The Hall amendment is widely supported among members of the Select Committee on Hunger, and I think appropriately so.

This legislation does give additional emphasis to the use of our fund for both basic education purposes and for child survival programs. In the past, we have seen U.S. AID programs for educational assistance move away from a reasonable balance or emphasis concentrated on basic education, programs for other education areas. It has been because of the suggestions, the recommendations, and the actions of the Select Committee on Hunger's members and some members of the Committee on Foreign Affairs that we have in the past several years moved back by direction to the executive branch to a more proper balance or emphasis on basic education.

I think, indeed, it is a fact that many of the improvements we have made in child survival programs are due to the exertion of the Congress in setting priorities, and if necessary, making appropriate earmarks. We in Congress can appropriately set priorities. That is a proper role for the legislative branch, and not to be directed by comments from the executive branch.

I think the gentleman's amendment is particularly important, too, in making a finding establishing food as a basic human right. It assigns related responsibility to the Secretary of State for human rights and humanitarian affairs, and requires a variety of reports about the U.S. Government's involvement, its energy, and its emphasis in pursuing a whole range of international efforts that are aimed at improving child survival. And through directions to the Assistant Secretary it attempts to promote increased respect internationally for mankind's rights to food and medical care in accordance with the findings set forth.

For those reasons and many others, I urge my colleagues, as strongly as I can, to give their support to the amendment offered by the distinguished gentleman from Ohio [Mr. HALL].

Mr. ESPY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I thank my friend, the chairman of the Select Hunger Committee, for yielding and for his work on these important amendments to the foreign aid authorization bill.

This amendment is important because the world's children are in trouble. More than 20 percent of African children will die before age 5. In Asia, more than 16 percent of children will never live to see their fifth birthday.

Despite this, in recent years AID has cut funding for children in developing countries and the administration further proposes to cut funding for children in Africa by 20 percent next year, from $50 to $40 million.

The Hall amendment would require that AID earmark only 5 percent of its entire budget for child health and survival activities. That's $275 million in fiscal year 1992 and $355 million in fiscal year 1993.

The Hall amendment also addresses the problem of education. In many sub-Sharan African countries, in Asia, and in some countries in south Asia, fewer than 10 percent of primary school children finish school. Unless children in the developing world are educated, they will forever be doomed to underdevelopment.

The Hall amendment would require that AID earmark just 2½ percent of its budget for basic education activities.

This amendment does not require any new money. But it does require AID to earmark 7½ percent of its annual budget for these critical child survival, health, and basic education activities.

Mr. Chairman, the foreign aid bill we will pass today authorizes $12.3 billion in assistance. But none is more vital than that which we spend to provide health care, nutrition, and education for the children in the developing world.

I urge my colleagues to adopt this en bloc amendment.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words. I urge my colleagues to support Representative TONY HALL's and the Hunger Committee's en bloc amendment to H.R. 2508, the International Development Cooperation Act.

Representative HALL, chairman of the House Select Committee on Hunger, is offering Members an excellent opportunity to support important changes to the foreign aid authorization bill that will assist our development efforts overseas. The amendment is based on the Freedom From Want Act that has the bipartisan cosponsorhip of more than 70 Members.

The Hunger Committee amendment will earmark additional funds for child survival activities around the world and for basic education programs in developing countries. By increasing our foreign aid emphasis on child survival and education, we give children in developing countries a better chance to live longer, more productive lives.

This amendment will require the Agency for International Development to spend about 5 percent of earmarked funds on child survival and 2½ percent on basic education. These activities give us the best return on our foreign aid investment by concentrating on the next generation of developing country citizens.

It is tragic to note that 14 million children die every year in the developing world. Child survival activities such as vaccinations, breastfeeding promotion, and oral rehydration therapy can drastically reduce that figure—UNICEF estimates that such an increase in child survival activities could cut the child death rate in half.

With respect to basic education in the developing world, in many countries fewer than 10 percent of all primary school-age children finish primary school. If more than 90 percent of the children are not learning basic reading, writing, and arithmetic skills, development does not stand a chance.

Finally, this amendment expands language on agricultural self-sufficiency to include renewable agriculture concepts. Almost every developing country's economy and people are highly dependent on agriculture. If the poorest countries of the world are to develop economically, they must first and foremost improve their agriculture and the capacity to feed their people.

As a representative of a farm State, I cannot over-emphasize the importance of sustainable agricultural systems. In this country we are increasing research and extension efforts to explore new, profitable, and sustainable farming practices. We must do all that we can to promote an agriculture in the developing world that maintains soil and water resources, minimizes soil erosion, and allows for the appropriate use of fertilizer and pesticides.

Vote "yes" on the Hall amendment and improve our foreign aid program.

Mr. UPTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to urge my colleagues to support Mr. HALL'S en bloc amendments to the foreign aid authorization bill, H.R. 2508.

First, I would like to commend Mr. HALL, chairman of the Select Committee on Hunger, and our ranking member, Congressman BILL EMERSON. Their leadership on this committee has helped to highlight how crucial it is

these amendments are included in the foreign aid authorization bill.

The provisions of the Hall amendments are taken from the international section of the Freedom From Want Act, which was introduced in the House by Congressman HALL. I am pleased to be a cosponsor of this bill, and I know that many of the Hunger Committee members and other House Members have also cosponsored it.

Briefly, the Hall en bloc amendments would promote child survival activities and basic education programs, and would require the Agency for International Development to submit to Congress an annual plan outlining how to achieve these goals. It would also add language regarding renewable agriculture and call for research in this area. Perhaps most crucially, it would establish that it is U.S. policy to promote the right to food and medical care as basic human rights, and include protection of these rights for civilians caught in times of armed conflict.

Hunger is a preventable tragedy. More than 40,000 children die each day from hunger and preventable diseases. The Hall en bloc amendments are an important step in reducing these tragic numbers and helping these people help themselves out of their impoverished living conditions.

I urge my colleagues to join me in supporting the Hall amendment.

Mr. FLAKE. Mr. Chairman, I move to strike the last word. I rise today in support of the Select Committee on Hunger en bloc amendment which contains key elements for the international section of the Freedom from Want Act.

□ 1110

As a member of the Select Committee, I have had the opportunity to investigate international needs as they relate to the extensive problems that are experienced in other parts of the world. It is especially crucial for us to try to address these concerns and give priority to the problem of hunger.

Despite the advances in combatting childhood mortality, the world's children are in constant states of despair. Almost 20 percent of African children will die before the age of 5, which represents about 53 percent of all deaths in Africa. When providing foreign aid, children should indeed be at the top of our priorities, because they represent the future.

Toward that end, these en bloc amendments earmark $275 million in fiscal year 1992 and $335 million in fiscal year 1993 for child survival activities. This money would provide lowcost, yet very effective assistance, such as immunication and oral rehydration therapy. The money would come from three different development and economic aid accounts, the development assistance, economic support assistance, and the development fund for Africa. This provision requires AID to spend only about 5 percent on children who will survive.

In addition, this amendment would earmark $135 million in fiscal year 1992 and $175 million in fiscal year 1993 for basic education activities. This requires AID to spend only about 2.5 percent on basic education in developing countries on areas such as early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults. Sustainable development has little chance of success in many countries in sub-Saharan Africa, as well as in Haiti, and in some countries in south Asia where fewer than 10 percent of all primary school-age children finish primary school.

This bill also requires the Agency for International Development to submit to Congress an annual plan for child survival and basic education.

Finally, Mr. Chairman, there is no new money added by this amendment. I repeat, there is no new money added by this amendment. The amendment simply requires that from the amounts already authorized in the bill, AID spends 5 percent on children and 2.5 percent on basic education. When authorizing foreign aid, we must focus on the needs of the poor with specific and effective programs.

I commend the chairman, the gentleman from Ohio [Mr. HALL] and the ranking minority member, the gentleman from Missouri [Mr. EMERSON] for offering this innovative amendment, and I urge that all members of this body support it.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in support of the Hall amendments en bloc, adding environmental policy language and earmarking substantial funding for education and child survival assistance and making certain, too, that we mandate the promotion of the right of access to food to U.S.-sponsored human rights initiatives.

This measure is long overdue. I want to commend the distinguished chairman of our Select Committee on Hunger, the gentleman from Ohio, [Mr. HALL], for bringing this measure to the floor at this time. Years ago, when I served on the Presidential Commission on Hunger, the findings of that Commission focused attention on the fact that the world has the ability to feed the entire population of this world, but what is needed is the intent and the will to do it. This measure goes a long way in providing funds that will make certain that the 15 million who die each and every year from lack of nutrition, lack of foodstuffs, are going to be supplied with the necessary sustainable kind of nutrition that they need, as well as to giving attention to the environmental problems and addressing the lack of education that exists throughout our developing world.

These amendments combat hunger and its immediate symptoms by expanding international food assistance programs and its root causes through innovative domestic antipoverty programs, and international human rights policy and U.N. reform.

These provisions are supported by organizations as diverse as Bread for the World, the U.S. Committee for UNICEF, the National Council for International Health, RESULTS, InterAction, World Vision, CARE, the International Eye Foundation, the U.S. Committee for Refugees, Save the Children, the Friends Committee on National Legislation, the National Association of State Universities and Land-Grant Colleges, Helen Keller International, and the Committee on Sustainable Agriculture.

Accordingly, I urge my colleagues to fully support this measure.

Ms. LONG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a member of the Select Committee on Hunger to support the gentleman's amendment. I believe that the amendment tightens the focus of the legislation and, in particular, strengthens the provisions of the bill encouraging self-sufficiency.

Foreign aid must assist other countries in achieving their own independent economic well being.

This amendment will not increase outlays but rather ensure that we are going to get the best results for our money and I urge my colleagues to support it.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise this morning to support the Hall amendments and to praise the gentleman from Ohio [Mr. HALL] and the gentleman from Missouri [Mr. EMERSON] on the work they have done on this particular bill.

Prior to coming to this prestigious organization of the U.S. Congress, I had visited West Africa, Latin America, and Asia. I have seen the need for education. The need for nutrition is beyond belief to many who do not have that particular understanding here in the United States.

On a trip to Liberia, I found that 35 percent of the children under 5 died from malnutrition.

There were areas of West Africa where the average age was 27.

If there is anything we need coming out of this body, it is an understanding on how to solve the problems of the world, and one of those things is to support this amendment.

We need security for the children. We need food and education. If we are not to repeat the cycle of poverty and ignorance in the world, then we have to have some sense of how to solve that

problem, and if we are to solve that problem, it is for us to rise today in support of this amendment to carefully craft how we can send the funds to those areas where they are needed. They are needed to provide nutrition for those children who do not have nutrition. They are needed to provide education for an understanding of how to provide for themselves in the future.

We live in an area where farming is relatively easy and natural for the middle latitudes, but in much of the world where they live in a rainforest there is no topsoil. It takes skill, it takes technology, it takes initiative, it takes education to provide for those people the education so that they can provide for themselves.

Mr. Chairman, I rise in support of the Hall amendments. I praise the gentleman for this particular initiative. This is something we need to do.

I would like to make one other remark. On my visit to areas of the world such as Asia and Africa, malaria in these areas is as common as the common cold is in the United States. You couple that with malnutrition before the age of 5 and you have a very difficult situation to surmount; so is we can provide those carefully crafted funds, we will go a long way to provide for those people and for a better world for everyone.

Mr. FAZIO. Mr. Chairman, I rise in support of Mr. HALL's en bloc amendment—a practical approach toward ending world hunger.

Each day, 40,000 children under 5 years of age will die from malnutrition and disease because they do not have the basic rights to food and medical care. In the United States alone, between 18 to 20 million people go hungry for at least part of each month.

Yet, hunger is not necessary. We have the capability of producing enough food to feed us all. And Mr. HALL's amendment is based on this premise. It rightfully assumes that our environment, properly managed, can sustain us—that, if we take a forward-thinking, proactive approach to dealing with this problem, we will be able to feed ourselves.

Mr. HALL's amendment, made up of key elements from the international section of the Freedom From Want Act, does not necessitate spending any additional funds. Instead, it calls for a strategic application of our current resources in an effort to eliminate hunger and its causes. It incorporates the best elements of all practical antihunger, antipoverty strategies—proper resource management, basic education, and child survival activities.

This is an opportunity for us all to see some sustained results in the war against hunger. We can address both short- and long-term needs by taking a proactive approach to meeting this challenge. I urge my colleagues to support Mr. HALL's amendment as a realistic plan for guaranteeing this basic human right.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendments en bloc offered by the gentleman from Ohio [Mr. HALL].

The amendments en bloc were agreed to.

The CHAIRMAN pro tempore. Are there any other amendments to title 1?

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 42, strike out line 18 and all that follows through line 23 on page 43 (sections 1205 and 1206) and insert in lieu thereof the following:

"(d) RESTRICTIONS ON POPULATION ASSISTANCE.—Funds for development assistance, economic support assistance, or assistance from the Development Fund for Africa that are used for population planning activities may not be made available—

"(1) to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization, or

"(2) to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning."

The CHAIRMAN pro tempore. The Chair will ask, are these amendments printed in the RECORD?

Mr. SMITH of New Jersey. Yes, they are, Mr. Chairman.

(By unanimous consent, Mr. SMITH of New Jersey was allowed to proceed for 3 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. SMITH] is recognized for 8 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, in floor debate on November 14, 1989, my good friend from Maine, OLYMPIA SNOWE said, "we all agree that China's policy of coerced abortions is both appalling and contemptible."

What Ms. SNOWE, Mrs. JOHNSON of Connecticut, President Bush, numerous China scholars, and I acknowledge as a "given," a fact, a matter that is beyond any reasonable doubt—namely the pervasiveness of forced abortion and forced sterilization in China—is a fact, however, the United Nations Population Fund says simple doesn't exist.

Faced with an extermination program that only a devotee of the Third Reich could love, the United Nations Population Fund continues to applaud the Chinese program, fund it, promote it, support it, comanage it, whitewash it, and grossly misrepresent it to the world.

Mr. Chairman, since China embarked on their brave new world of forcing only 1 child per couple in 1979, more than 120 million babies have been slaughtered by the State. Anthropologist Steven Mosher, the man who broke the story in the early 1980's after living with the rural Chinese, estimates that approximately 90 percent of those 120 million abortions were the result of coercion.

In his book published this year, "Slaughter of the Innocents: Coercive Birth Control in China," Dr. John Aird writes:

The Chinese program remains highly coercive, not because of local deviations from central policies but as a direct, inevitable, and intentional consequence of those policies.

In their exhaustive 1988 study on population trends in the People's Republic of China, China experts Judith Banister and Karen Hardee-Cleaveland of the United States Census Bureau conclude:

Today Chinese couples still are not given a choice about whether they practice family planning, how many children they have, when they have the allowed birth or births, whether or not to sign family planning contracts or what form of birth control they will use. It is forced on them.

Against this backdrop of UNFPA's complicity in coercion—comes the Kostmayer amendment earmarking funds for the UNFPA. Since the enactment of the Kemp-Kasten law in 1985, a policy which the language of the Kostmayer amendment circumvents, the administration has reviewed UNFPA's activities and the President has made an annual determination that UNFPA violated the statute and is guilty of supporting and comanaging a coercive population control program in China.

AID has made a determination that:

The kind of quality of assistance provided by UNFPA contributed significantly to China's ability to manage and implement a population program in which coercion was pervasive.

AID further states that,

The quality and substantial amount of UNFPA management assistance in China has a significant impact on the establishment and maintenance of an effective demographic information system and the ability to formulate [these] targets, monitor compliance and enforce China's one-child policy.

Mr. Chairman, argument will be made today that a mere bookkeeping exercise—an accounting trick—permits the United States to resume funding of the UNFPA provided they segregate the account so not United States funds go to China.

This approach embodied in the Kostmayer language is weak, flawed and belittles our deep concern regarding UNFPA's complicity in the coercive population control program in China. Money, moreover, is fungible. The UNFPA ought not be rewarded for its steadfast adherence to unethical behavior.

And, it seems to me, that if the UNFPA was supporting, comanaging and funding substantial technical assistance to a highly coercive population control program in another country—and that country happened to be the United States, not China—even Mr. KOSTMAYER might see this in a different light. If American women, not Chinese women, were being victimized by forced abortion, involuntary sterilizations, loss of pay and benefits for unauthorized births, the humiliation of many other forms of coercion, Mr.

KOSTMAYER's accounting trick would be seen as totally unacceptable.

Chinese women aren't second class citizens. What we wouldn't tolerate for American women and children shouldn't be tolerated or dealt with lightly because it's happening in a faraway place.

Finally, let me underscore here that every dollar withheld from UNFPA has been reprogrammed to other family planning projects around the globe.

For the RECORD, I will include the reprogramming list.

ORGANIZATIONS RECEIVING REPROGRAMMED UNFPA FUNDS, 1985–1991

Question. A.I.D. has reprogrammed funds set aside for UNFPA since 1985. To what organizations and projects has this money been given?

Answer. The following list shows the organizations that received reprogrammed UNFPA funds by year.

1985: AMOUNT REPROGRAMMED: $10,000,000

General Services Administration (Contraceptives).
Family of the Americas Foundation.
Columbia University.
International Federation for Family Life Promotion.
John Snow, Inc.
Management Sciences for Health.
Pathfinder Fund.
IPPF/Western Hemisphere Region.

1986: AMOUNT REPROGRAMMED: $25,000,000

Family Planning International Assistance.
Johns Hopkins University/Population Communication Services.
Population Reference Bureau.
Westinghouse Institute for Resource Development.
Ansell (Contraceptives).
The Futures Group.
Columbia University.
Population Council.
John Snow, Inc.
Georgetown University.
Johns Hopkins University/JHPIEGO.
IPPF/Western Hemisphere Region.
Management Sciences for Health.

1987: AMOUNT REPROGRAMMED: $25,390,000

University Research Corporation.
Family Health International.
Ronco Corporation.
Development Associates, Inc.
Johns Hopkins University/Population Communication Services.
John Hopkins University/JHPIEGO.
IPPF/Western Hemisphere Region.
The Futures Group.
Georgetown University.
John Snow, Inc.
Center for Development and Population Activities.
Johns Hopkins University/Population Information Program.

1988: AMOUNT REPROGRAMMED: $25,000,000

Ansell/Contraceptives.
Dual and Associates.
The Futures Group.
John Snow, Inc.
Center for Development and Population Activities.
Pathfinder Fund.
IPPF/Western Hemisphere Region.
Association for Voluntary Surgical Contraception.
Johns Hopkins University/JHPIEGO.
Johns Hopkins University/PCS.
Development Associates, Inc.
Ronco Corporation.
University of North Carolina/INTRAH.
Management Sciences for Health.
University Research Corporation.
Columbia University.
Population Council.
Family Health International.
East Virginia Medical School.
Georgetown University.
Westinghouse Institute for Resource Development.
U.S. Bureau of the Census.
Population Reference Bureau.

1989: AMOUNT REPROGRAMMED: $5,000,000

IPPF/Western Hemisphere Region.
Ansell/Contraceptives.
Family Health International.
Population Council.
University of Michigan.

1990: AMOUNT REPROGRAMMED: $11,213,000

Family Planning International Assistance.
Ansell/Contraceptives.
Center for Development and Population Activities.
The Futures Group.
IPPF/Western Hemisphere Region.
Johns Hopkins University.
Management Sciences for Health.

1991: (ANTICIPATED): AMOUNT TO BE REPROGRAMMED: $10,000,000

Population Council.
Georgetown University.
Family Health International.
East Virginia Medical School.
Dual and Associates.
IPPF/Western Hemisphere Region.
The Futures Group.
CARE.
John Snow, Inc.
Development Associates.
University of North Carolina/INTRAH.
Johns Hopkins University/JHPIEGO.
Johns Hopkins University/Population Communication Services.
American Association for the Advancement of Science.

Mr. Chairman, the second part of my amendment strikes language in the bill that reverses the Mexico City policy—a prochild, humane policy that effectively separates abortion from family planning in international population control programs. The Mexico City policy is both profamily planning and prolife. It precludes donations to NGO's that perform or actively promote abortion as a method of family planning. According to AID, the number of NGO's that have accepted the Mexico City policy has actually grown in the last year from about 300 to approximately 400. Even the number of Planned Parenthood affiliates have grown from 37 to 44.

Significantly, Mr. Chairman, the United States remains the leading donor of population aid, providing about 45 percent of all international family planning assistance in more than 100 countries, so to suggest that the United States has abrogated its leadership in family planning just doesn't wash. Since 1981, the United States has obligated over $2.6 billion for these programs.

Mr. Chairman, recent polls show that Americans overwhelmingly object to the promotion of abortion as a method of family planning. A March 1989 Boston Globe poll, for example, found that 89 percent of the American public rejected abortion as a means of birth control, and a Gallup poll taken in May 1990, found 88 percent disapproval.

Mr. Chairman, I believe Americans can be proud of the fact that while the U.S. Government provides substantial amounts of funds to family planning initiatives worldwide, we draw the line with regard to abortion and we do it in a way that is profoundly sensitive to and protective of the very small and extremely vulnerable unborn child.

It is precisely because children, like their mothers, are precious, deserving of respect, compassion and tangible assistance, that our government says no to funding abortion—directly or indirectly—and seeks instead to provide financing to family planning programs that are less likely to prove injurious to the child in the womb.

It should be clear, Mr. Chairman, as to why the Bush administration and on several occasions the House of Representatives, have insisted that abortion not be construed as a method of family planning. The reality is that abortion procedures destroy infants by ripping them apart or poisoning them.

In a common abortion method known as vacuum aspiration, a loop-shaped knife attached to a high powered suction machine rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and they're disposed of. The power of the vacuum is said to be about 30 times that of a household vacuum cleaner.

In a D&D and D&E abortion, the child is dismembered, literally dismembered, by a surgeon's knife without even the benefit of anesthesia.

In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn baby, has his or her life purposely snuffed out by an overdose of injected salt water. A baby terminated in this way dies a very slow, excruciating, and painful death. After the salt is injected by a hypodermic needle into the infants amniotic sac, the child breathes the fluid and gets sick. The salt burns the outer layer of the skin and gets into the blood stream and kills the vital organs of the child. A day or two later, the mother goes into labor and gives birth to a chemically burned baby whose appearance resembles a first degree burn victim.

This Mr. Chairman, is the horrific reality of abortion—dead babies. In each case, every abortion stops a beating heart.

I remain deeply saddened, Mr. Chairman, that some in the family planning community are so inextricably linked, so wed, so obsessed, with snuffing out the lives of developing babies that they refuse to divest themselves from abortion. Yet, it is also clear that the number of NGO's that choose to promote contraception—not abortion—is growing. As I indicated earlier, the number

of NGO's that have accepted the Mexico City policy has grown in the last year from about 300 to 400.

Mr. Chairman, the Mexico City policy effectively separates abortion from family planning, and I believe it should be preserved.

□ 1120

Mr. HYDE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, the other day this House passed a resolution directed at saving whales and saving porpoises, and I was happy to support that. I think we need whales and porpoises; but I am more concerned about saving human lives.

I think a little Chinese fetus, which is an embryonic life, not a potential life but a life with potential, is at least as important as a whale, a snail darter, and all those endangered living organisms we want to save.

We are in very bad company when we associate ourselves with, and when we subsidize, the U.N. Fund for Population Assistance because the U.N. fund supports and helps manage the Chinese population policy which makes Tiananmen Square look like a picnic.

A Chinese policy of coerced sterilization and coerced abortion that works, I might add to you feminists, against women. God help you if you have a girl child.

At least Lawrence Tribe said that in his recent book, "Abortion, the Clash of Absolutes." Lawrence Tribe of Harvard said, "China's one-family, one-child and compulsory abortion policies greatly undermine the well-being of couples who bear a female child."

Let me tell you what this coercive policy in China does—and remember, in supporting the language in the bill and voting against Chris Smith's amendment, you are jumping in bed with an organization that supports and subsidizes and helps manage this coercive policy. Let me quote from the Washington Post of February 26, 1989, an article by Blake Kerr, "Witness to China's Shame."

The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences * * * The women who refused were taken by force, operated on, and no medical care was given. Women 9 months pregnant had their babies taken out * * * We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible * * * Since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area * * *"

That is in the Washington Post of February 26, 1989.

There are many other quotations about the atrocities that were imposed on women who commit the crime of having more than one child. So this is something you either want to support or want to reject.

What we are proposing is not to diminish by one nickel the funds that are used for family planning but to recognize and emphasize family planning is contraception, not abortion. One procedure prevents the conceiving of a child; the other exterminates tiny little preborn life.

□ 1130

So, Mr. Chairman, I suggest that we not coerce millions of American taxpayers into supporting this kind of atrocity, into supporting the extermination of unborn children around the globe, and stay with the policy we have had. We supply 45 percent of the funds in the world for family planning. There are over 400 groups that do not require abortion as a part of their family planning. Abortion is killing. Contraception is preventing a life from coming into being.

So, Mr. Chairman, I urge my colleagues to rank human beings, whether they are from China, or Bangladesh, or anywhere, at least with snail darters, at least with baby harp seals, at least with burros, and protect them and their right to live. Do not force people to subsidize the killing of unborn children.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at the appropriate time I will offer an amendment to the amendment offered by the gentleman from New Jersey [Mr. SMITH], my friend, which would restore UNFPA funding. The amendment that I will offer also requires the UNFPA to enforce a cap on the funds that the UNFPA provides to China. This will prevent U.S. funds given to the UNFPA from freeing up any additional UNFPA funding for China. That is something we do not want them to do.

I ought to say, Mr. Chairman, that the amendment of the gentleman from New Jersey [Mr. SMITH], in addition to limiting funds to China, which is something we concur with, would cutoff United States population funds to 140 countries in the world. This amendment would cut off voluntary family planning to 140 countries in the world, in the Third World, in Africa, Asia, and Latin America. This amendment would cutoff United States family planning assistance to Ethiopia. This amendment would drastically limit United States voluntary family planning assistance to India. This amendment would also vastly scale back United States voluntary family planning assistance to Bangladesh. In addition to cutting off those 140 countries, some of which would continue to get U.S. aid for population independently of the UNFPA, 50 of those countries, as a result of this amendment, would lose all of their voluntary family planning assistance from the United States.

Mr. Chairman, we are talking about an amendment which will hinder family planning clinics in Bangladesh. We want to provide to those women, the poorest women in the world, the opportunity to limit the number of children they will have on a voluntary basis. This amendment offered by the gentleman from New Jersey [Mr. SMITH] and supported by the author of the Hyde amendment, my friend from Illinois, would hinder those clinics, deny those women in those countries voluntary family planning assistance from our country.

Mr. Chairman, in Africa the growth rate for food production is 1 percent a year. The growth rate for population is 3 percent a year. That is why people are starving in Ethiopia, that is why people are starving in Bangladesh, because there are too many people and too little food.

This amendment would give the women of those countries and 140 other countries the opportunity which women in this country have, at least for a little while longer, to decide whether or not they want to have children.

Each year, Mr. Chairman, the world's population grows by 90 million people. Almost all of those people are born in Africa, Asia, and Latin America. That is another Mexico every year. This is one of the most troublesome and most fundamental problems which is affecting the planet today.

Now the administration says that the UNFPA is involved in coercive abortions. This is a study released by the Agency for International Development, which is part of the State Department, which is a part of this administration. It says, and I quote, "There is no evidence that UNFPA is essentially or actually promoting or supporting abortion in any country." This is a document from the U.S. State Department which contravenes directly what the gentleman from New Jersey [Mr. SMITH] and the gentleman from Illinois [Mr. HYDE], my friends, have said.

I urge in the strongest possible terms the committee to agree to the amendment which I will offer at an appropriate time to the amendment of the gentleman from New Jersey [Mr. SMITH] and to allow poor women around the world to choose how many children they will have. That should not be a decision made by the Congress of the United States.

Mr. ROHRABACHER. Mr. Chairman, I rise in support of the amendment of the gentleman from New Jersey [Mr. SMITH], and I yield to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman from California [Mr. ROHRABACHER] for yielding.

Mr. Chairman, we have just experienced a tremendous exercise in hyperbole. Let me make a few points.

First of all, Mr. Chairman, the 1985 AID memo referred to by the gentleman from Pennsylvania [Mr. KOSTMAYER] was a very cursory view, and it was based upon available evidence at the time, before the operative Kemp-Kasten language kicked in, after Congress said that it would no longer tolerate coercion, forced abortion, forced sterilization. The Agency for International Development took a very careful review of what was going on in China, and UNFPA has complicity in that, in providing the necessary means, the infrastructure, the computer capability, to more effectively prosecute that policy upon the victims, the women and the children in the People's Republic of China. AID in its determination said, since AID is being quoted by my friend:

> The kind and quality of assistance provided by UNFPA contributed significantly to China's ability to manage and implement a population program in which coercion was pervasive.

AID further states that the quality and substantial amount of UNFPA management assistance in China has a significant—not small—a significant, impact on the establishment and maintenance of an effective demographic information system and the ability to form those targets, those birth quotas, and to monitor compliance and to further enforce China's one-child-per-couple policy.

When we talk about Bangladesh, AID provides substantial family planning assistance to Bangladesh. As a matter of fact, it is the largest of all those programs that we underwrite and subsidize. It is the largest recipient of AID population funds, and AID is very proud of what it has done there and has provided, and I will make it a part of the RECORD, a very substantive factsheet concerning the kind of contraceptive preventative means of family planning methods that they have provided.

□ 1140

Let me also point out that we are in excess of 100 countries, 85 countries providing technical and project assistnce, throughout the developing world.

Mr. Chairman, finally let me just reiterate, we spend about $2.6 billion on family planning, and have done so since 1981. I think it should be very clear these are profamily planning amendments, but we also feel that they must be voluntary, without coercive abortion, without coercive sterilization.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say, if I can capsulize the statement of the gentleman from Pennsylvania [Mr. KOSTMAYER], it is no family planning without abortion. And in Ethiopia, the civil war between the Eriteans, the Tigreans, and the communist government of Mengistu has nothing to do with the fact that those people are starving: and over in Japan, where the density, more people per square mile, is greater than Ethiopia, they have a high standard of living with a lot of people.

Mr. Chairman, the gentleman has certainly summarized his grasp of this problem marvelously well. His citation from AID is about seven years out of date. So the gentleman has made his usual great contribution to this discussion.

Mr. MOODY. Mr. Chairman, first, let me agree with much of what my friends from the Republican side, the gentleman from Illinois [Mr. HYDE] and the gentleman from New Jersey [Mr. SMITH], have said, but disagree with their conclusion. None of us are asking the American taxpayer to pay for abortion overseas. They would not do so with or without the Smith amendment. The committee bill before us would not spend one penny on abortion anywhere in the world. So that part of the debate has been a red herring. In fact, this is not an abortion bill at all.

Second, another red herring to be pointed out relates to China. There is not a single penny in this bill for China. No money in this bill goes to China for any purpose, for abortion, or for anything else. Not even for ordinary family planning. In fact, China is explicitly excluded from any funding whatsoever in this bill.

So those two arguments are fine, but have nothing to do with the amendment that is being offered by Mr. SMITH.

I spent a year in Bangladesh myself with the Peace Corps. When I went to Bangladesh in 1961, the population of that country was less than 50 million people. Today the population of Bangladesh is over 118 million, living in a Malthusian world of near starvation, forced to inhabit delta flats which are totally vulnerable to typhoons and other disturbances of nature that wipe out hundreds of thousands of people at a time because they are simply overpopulated.

Bangladeshi women typically have six or eight children, of which maybe four survive. The others die of malnutrition and other opportunistic diseases.

We are talking about preserving lives—preventing child death—in Bangladesh, about avoiding incalculable human suffering and death by letting people select their family size and space their children. They need to do this so they can take care of them, appropriately, as long as they have the means and the ability to do so. This is the goal of the committee's bill, and this is what we are attempting to defend when we ask for defeat of the Smith amendment.

To bring in China and abortion is a red herring, because there is no money here for China, and there is no money for abortion.

Now, what the amendment of the gentleman from New Jersey [Mr. SMITH] would actually do, would be to totally strike all U.S. funds for UNFPA and for its program in all countries other than China.

What is the problem with that? Mr. SMITH says that the United States is already assisting Bangladesh with AID funds. But there are many other countries in the world where there is no U.S. AID program, where there are no bilateral programs and where UNFPA is the only family planning program in being.

In Africa, for example, UNFPA serves 30 countries; AID only 11. There are 29 countries in Africa that will receive zero United States funds if the Smith amendment passes. That is not the way to go. That is not the way.

Here is my fundamental point: why would you want to punish 29 countries in Africa, and a number of countries in other regions, because you want to punish China? If you want to get at China, then I would suggest the appropriate place to get at China is the Most Favored Nation Treaty for trade when it is before us. If you want to get at China—appropriately—for its human rights abuses, then do it where it hurts, where they will feel it.

In this amendment, since there is already no money in the bill for China, you will be punishing Haiti, India, Benin, Cape Verde, Nigeria, and a whole host of other countries.

Consider this: if you pass this amendment, you will be letting the internal abuses in China, as bad as they are, to dictate American policy for 30 or 40 other countries. Why would we want to let policies inside China, as bad as they are, dictate what we do to help other countries? By voting for the Smith amendment you would be relinquishing your role to shape our policy for other countries and tying it to what goes on inside China.

Why would any thinking Member let China's internal policies dictate what we do vis-a-vis Nigeria, which is exactly what the Smith amendment does. Cutting off all U.S. money for UNFPA would mean that we are not going to assist those countries through UNFPA which the United States has historically done.

Mr. Chairman, I cannot figure out why anyone who cares about our country setting its own policy will let the Smith amendment dictate U.S. policy to 30-some other countries which is exactly what you are doing if you support the Smith amendment.

Mr. Chairman, I would suggest that Members support the committee bill as

it is. There will be plenty of time to get at China in appropriate ways which cause real impact. The Smith amendment would not do that. By hurting a whole series of other countries through the UNFPA as they attempt to carry out non-abortion-related programs and simply want to avoid child starvation, death, and suffering would certainly be cruel.

I urge that we defeat the Smith amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we support the Smith amendment, we strike all money for UNFPA and for Planned Parenthood, and for any other organization who does an abortion for any reason, even if the mother is in extremely bad health.

If we deny UNFPA, we take out funding for family planning through that organization for the entire world, because of what the gentleman from New Jersey [Mr. SMITH] claims China is doing.

The other part of the Smith amendment would reaffirm the international gag rule, which says that no organization can receive any money from the United States if they mention the word "abortion."

Mr. Chairman, I recognize that abortions can be performed to save the life of the mother. But if there is a serious health problem, if a woman in Bangladesh weighs 85 pounds, has five children, and has been breast feeding for 3 years because there is no other food for her children, Planned Parenthood or any other organization cannot suggest to her that termination of another pregnancy might be a sound medical idea, because they cannot mention the word abortion.

This country has got to begin to look at sheer numbers in the world. I am not one of those who think that people are a blight on the Earth. I think we should multiply and we should continue to try to make things as best we can for the people in this world. But we have simply got to begin to look at the numbers.

Mexico has a growth rate of 2 percent. This means that its population will double in 30 years. India has a growth rate of 2 percent. Bangladesh has a growth rate of 3 percent. Its population is going to double in 23 years.

If you take family planning money away from China, what you are doing is taking away family planning money from a country that currently has an enormous population problem, has a population of 1.1 billion people that they are desperately trying to deal with, and whose population will double to 2.2 billion people in less than 50 years.

The UNFPA and Planned Parenthood are probably the most effective groups in the world. Why is that? We continue to provide family planning money, $300 million of it, to other groups. We provide a great deal of money for family planning. But if you are in a health clinic in a remote area in a Third World country, and you have people dying on one side, and you have some family planning money, I am sure that you are going to help the people who are dying. I would do the same thing. Even AID recognizes that we cannot track all of our family planning money.

□ 1150

We should be giving our family planning assistance to those groups who only do family planning, whose only mission is family planning. It is extremely shortsighted of us to adopt the Smith amendment. If my colleagues think the fact that Mexico has a growth rate of 2 percent with a doubling of their population in 30 years is not going to have an impact on the United States, I beg to differ with them. I think it will have a major impact on the United States.

We simply must begin to be part of the solution and not part of the problem. I have come to the reluctant conclusion that nothing happens in this world, nothing, unless the United States takes a real leadership position in it. And we are not taking a leadership position here.

We have a wall in this country, and it has abortion written on it. And somehow we keep running into that wall no matter what we try to do. Family planning is a good thing to do. These are not abortion issues that we are dealing with today. They are family planning issues, and we should defeat the Smith amendment.

I believe that we will do that by having two amendments to his amendment, and I urge my colleagues to vote for both amendments to the Smith amendment, and allow family planning to go forward.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for 25 years the United States has been calling upon poor countries of the world to reduce their population growth. These are the very countries that can least afford a doubling of their human numbers. A U.S. contribution to the U.N. population fund is extremely important.

It was the United States that worked diligently on behalf of creating this fund. Today it is clear that the global population crisis cannot be fought successfully with countries and organizations going their separate ways. There must be a coordinated concerted effort.

For this reason, I believe the responsible vote on this issue is on behalf of the United States resuming its support of the largest multilateral organization, providing family planning services for developing countries to the United Nations population fund.

The Secretary General of the United Nations recently reported in his 1990 report that the global population now standing at 5.3 billion increased by 250 million every single day, almost 1 billion in that span of 10 years will be the total growth. Well over 90 percent of that growth will occur in the poorest countries. There is thus an unmanaged increase in the number to be fed, clothed, and sheltered. This has overstrained the capacity of the developing countries to provide employment, housing, infrastructure, and related services.

Unless this trend is arrested, there will be social chaos in large parts of the world. Other severe negative impacts include the degradation of the environment in many places of the world, as population pressure increases, the Earth's capacity to endure.

It has been already mentioned that 17 out of 36 countries of the world will not receive any assistance, 17 out of 36 African countries, because they do not receive bilateral aid from the USA. By supporting the Smith amendment, we will certainly do a serious disservice to people around the world.

I would just simply like to say that I would hope that the interests of civil rights of people and women's rights of people in China would be the same thing, would be the same interests that we would see for civil rights and human rights in the United States, because maybe some of those persons who so strongly push women's rights and civil rights in China would vote in favor of the civil rights bill of 1991.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. PAYNE of New Jersey. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Smith amendment and want to associate myself with the remarks of the gentleman in the well [Mr. PAYNE]. It is important to emphasize that this vote has nothing to do with China. United States funds for population efforts by the United Nations that are included in this measure are specifically prohibited from going to the People's Republic of China.

Our votes today are to determine whether we support the United Nations' population assistance efforts that we so faithfully supported for so many years.

It is important to know that virtually all of the United States' best friends in the international community—including the United Kingdom, Canada, Germany, the Scandinavian countries, and Japan—are contributing to the United Nations Population Fund. In fact, since the United States cut off its contribution in 1986, these countries have all increased their con-

tributions to the U.N. Population Fund.

World population is growing by 95 million a year—by far the largest annual increment to this planet. The repercussions of that growth—in terms of environmental deterioration, unemployment, economic stagnation, malnutrition, and hunger—are absolutely devastating. The question is too important, the stakes too high for this matter to sink into ideological quicksand. A vote for supporting the U.N. Population Fund is a vote on behalf of implementing our concern regarding a very real problem. One that may well determine the quality of life on this planet in the years to come.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman I rise in support of my colleague, Mr. SMITH of New Jersey, and the amendment he offers today to strike the committee-approved language that would nullify the Mexico City policy and earmark funds for the U.N Population Fund [UNFPA], and I associate myself with the remarks of the gentleman from Illinois [Mr. HYDE].

During the 1970's and early 1980's foreign nongovernmental organizations were the major source of funding for a number of groups which promoted abortion and the legalization of abortion in developing countries. Adopted in 1984, the Mexico City policy substantially changed the U.S. position on funding such organizations by stipulating that the Agency for International Development [AID] will not fund any private organization which participates in performing or promoting abortion as a method of family planning. This policy does not alter the amount of money authorized to AID but rather reprograms this money to other organizations that are in accord with the Mexico City policy.

A year later, in 1985, the House approved the Kemp-Kasten amendment which denies funds to organizations that support coercive population programs. Funding is denied the UNFPA due to its active participation in China's population control program—its one-child-per-family program. In denying funds to the UNFPA the United States does not spend any less on foreign family planning but redirects appropriated funds to those programs that do not participate in coercive abortion.

Since adoptions of these two policies, positions have not changed radically. The International Planned Parenthood Federation [IPPF] and the Planned Parenthood Federation of America [PPFA] still refuse to adopt AID clauses. However, 44 IPPF affiliates have agreed to sign the Mexico City policy along with approximately 400 foreign family planning NGO's.

Are we here once again to debate the merits of the Mexico City policy? If so, let me remind you that the House has twice voted to affirm this policy.

Are we here to debate whether the UNFPA promotes abortion as a family planning method? If so, let me point out that despite evidence of coercion, the UNFPA heralds the China program as a model for other developing nations.

Are we here today to once again debate paying for abortion with U.S. dollars? If so, let me forewarn you—the President has assured the Congress he will veto any bill with language striking the intent of the Mexico City policy, and the Kemp-Kasten Act.

The real issue before us today is whether the House intends to reverse its current position of denying U.S. tax dollars to fund, however indirectly, any organization or program that promotes abortion.

If these unborn babies at risk were to be educated rather than terminated, they could teach humane methods of family planning for future generations to come, and future politicians will not have to belabor this sensitive issue as we have so often in the past and as we do again today.

U.S. tax dollars can better be invested in future generations rather than in determining future generations.

I strongly urge my colleagues on both sides of the aisle to stick to its current position by voting yes on the Smith amendment.

□ 1200

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. SMITH of New Jersey:

After line 12 of the amendment, add the following:

"SEC. 1205. FUNDING FOR THE UNITED NATIONS POPULATION FUND.

"Notwithstanding the foregoing, of the funds appropriated under section 1204(b), $20,000,000 or 16 percent of the amount appropriated (whichever is less) shall be available only for the United Nations Population Fund, subject to the following conditions:

"(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

"(2) None of these funds shall be made available for programs for the People's Republic of China.

"(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

"(4) Any agreement entered into by the United States and the United Nations Population Fund to obligate funds earmarked under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if, during its five year program which commenced in 1990, the United Nations Population Fund provides more than fifty-seven million dollars for family planning programs in the People's Republic of China.

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, my amendment would seek to clarify the amendment offered by my friend, the gentleman from New Jersey [Mr. SMITH]. The amendment offered by the gentleman from New Jersey [Mr. SMITH] does two things. It strikes funding for UNFPA, and it restores the so-called Mexico City policy which has been struck in the committee print.

My amendment would clarify the debate by separating these issues, restoring funding to UNFPA but leaving alone those provisions regarding Mexico City which are currently contained in the amendment offered by the gentleman from New Jersey [Mr. SMITH].

My amendment furthermore would require UNFPA a cap on the total amount of funds which UNFPA could provide to China at the level of $10 million per year. The agreement between the U.N. Population Fund and the United States would require the UNFPA to return all U.S. funds if any additional funds have gone to China.

The amendment continues all of the restrictions on abortion which have been in current law for such a very long time.

I would say, finally, before yielding to the gentleman from California [Mr. BERMAN], that Members should be aware that the United States is not providing family planning assistance in 50 countries that are served by the UNFPA. If my amendment is not agreed to, and the amendment offered by the gentleman from New Jersey [Mr. SMITH] is agreed to, those 50 countries in the Third World would lose all voluntary family planning assistance.

Mr. Chairman, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise only to seek and to propose that by unanimous consent this body accept, on the amendment now being offered, the Kostmayer amendment, a time limit of 40 minutes, 20 minutes to be controlled by the maker of the amendment, the gentleman from Pennsylvania [Mr. KOSTMAYER], and 20 minutes to be controlled by the gentleman from New Jersey [Mr. SMITH].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. DORNAN of California. Mr. Chairman, reserving the right to object, may I inquire of the Chair and of my colleague, the gentleman from California, why are we limiting debate here? Why do you want us to cooperate with you?

Mr. BERMAN. Mr. Chairman, if the gentleman will yield to me under his reservation, it is because there is, as we have discussed with the gentleman from New Jersey and the gentleman from Illinois [Mr. HYDE], there are two separate amendments to the underlying Smith amendment. The time limit would be proposed for this amendment and then for a subsequent amendment focusing on the Mexico City policy.

We are under a rule that has an 8-hour time limit, and all amendments to be offered to this, and in just some effort, and not in any way diminishing the importance of this discussion, we think 20 minutes, 20 minutes, 40 minutes on this, 40 minutes on the next in the context of a totally hour debate is a quite reasonable allotment of time to this very important issue out of that total amount of time.

Mr. DORNAN of California. Mr. Chairman, at this time I must object until a few more 5-minute speeches have taken place and I go over some more of this horrendous material on China, and then I will go over and counsel with the other side and reconsider. But I do object at this point.

The CHAIRMAN pro tempore. Objection is heard.

Mr. KOSTMAYER. Mr. Chairman, is it my understanding that the unanimous-consent request was not agreed to?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. KOSTMAYER. Mr. Chairman, I yield to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, the U.N. Population Fund [UNFPA] is the largest multilateral provider of population and voluntary family planning aid. UNFPA provided support to 138 developing countries in 1990. Since 1969, the Fund has provided a total of $2.2 billion in population assistance to virtually all developing countries and has been successful in providing these countries with contraceptive services and the ability to build their own family planning programs. This is critically essential if their development plans are ever going to be able to avoid being overwhelmed by dramatic population pressures.

Global population grows by 95 million people every year. Most of those are in the Third World. While these nations—the poorest of the poor—must respond to the immediate needs of such a growth of population, can any of us question why development is not proving more successful? To me the answer is clear.

I am sad and frustrated that we must once again debate whether or not UNFPA is deserving of U.S. support. There is a devastating lack of family planning services in countries served by UNFPA. The need is urgent and unquestionable.

A Worldwatch Institute study which was released yesterday contains sobering statistics and provides further arguments for boosting aid to UNFPA. The study found: That complications of pregnancy, childbirth, and unsafe abortion are the leading killers of women of reproductive age throughout the Third World. One million women die each year as a result of reproductive health problems; each year 250,000 women die from unsafe abortions; only 20 to 35 percent of women in Africa and Asia receive any kind of prenatal care; 250 million cases of sexually transmitted diseases are reported each year leading to increases in infertility, chronic pain, and deaths among women; and 500 million married women want contraceptives but cannot obtain them.

Most of what I have just described could be prevented. A mere $1.50 invested per woman per year would enable most nations to reduce maternal deaths by more than 60 percent. The provision we are considering today would earmark $20 million for the UNFPA or $1.50 for 1.3 million women this year. We have the opportunity to make a real impact on women's lives with these funds.

This debate attempts to direct our attention away from the real problems of international family planning, by those who wish to focus on China's forced abortion policy. That is irrelevant. The $20 million earmarked for UNFPA in this bill is strictly prohibited from going to China. You will hear rhetoric that UNFPA helps China promote a forced abortion policy, but that is patently untrue.

UNFPA has never promoted abortion or provided abortion services in China or anywhere else. UNFPA follows a human rights code which recognizes that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children.

It is ironic that those who oppose abortion are calling for a reduction in funding for one of the most successful international family planning organizations in the world. The activities of this organization serve to reduce the likelihood of abortions. The current ban on funding to UNFPA is unfounded. It must be reversed.

I urge my colleagues to take an important step toward reducing the tragic realities of reproductive health in developing nations. Support the $20 million earmark for UNFPA. By doing so, you will be saving lives.

Mr. MCEWEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for most of the last decade the Kemp-Kasten anticoercion law and the Mexico City policy separating family planning services and abortion have established the parameters within which the U.S. family planning assistance has been extended to developing countries.

These important policies have two primary goals. First, they remove the United States from any possible support, either financial or otherwise, for the policy of coerced or forced abortions and sterilizations.

Second, they ensure that our foreign aid programs are consistent with the general Federal policy to separate abortion from family planning and contraception and to keep Federal funds from financing human abortions.

Mr. Chairman, I would like to take a moment to read a portion of a letter that the President recently sent to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL]. Its purpose, the President stated, was to make sure that there was no misunderstanding of the President's views or convictions regarding abortion, especially in light of efforts to change present Federal policy.

The letter states:

THE WHITE HOUSE,
Washington, June 4, 1991.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: Legislation is now being considered by several committees in both the House and Senate that would substantially change Federal policy with respect to abortion. Given the importance of this issue, I am writing to make sure there is no misunderstanding of my views or convictions.

I have not reached these decisions easily or lightly. Abortion is a difficult, deeply emotional and very personal decision for all Americans. It is made even more difficult when the underlying issue is whether the Government—and ultimately the American taxpayer—is asked to pay for abortions and under what circumstances. Since 1981, the Federal Government has determined that taxpayer funds should be used for abortion in only the most narrow of circumstances: where the life of the mother is endangered.

Current law also prohibits contributions made to international organizations that fund coercive abortion programs. The Department of Defense prohibits abortions at U.S. military facilities, unless the life or the mother is endangered. And, the Department of Health and Human Services has promulgated regulations that prohibit the use of Federal family planning funds for abortion related activities.

I believe all these policies should continue. I will veto any legislation that weakens current law or existing regulations.

Sincerely,

GEORGE BUSH.

The Smith amendments are absolutely necessary to ensure that the bill is not vetoed over this attempt to change Federal abortion policy.

The Kemp-Kasten law only prohibits funds from being provided to any organization which supports or participates in the management of a program of coercive abortion or involuntary sterilization. Remarkably, only one organization has been denied funds in the world, the U.N. Population Fund.

□ 1210

The organization has provided computer equipment to the Chinese, they have trained demographers and family planning workers. The quality and amount of UNFPA management assistance in China has a significant impact on the ability of the Chinese to maintain an effective demographic information system, and the ability to formulate targets, monitor compliance and enforce the Chinese one-child policy.

On top of direct assistance, this repulsive Chinese program is promoted by UNFPA around the world as effective and exemplary family planning.

The attempt to separate the proposed $20 million American contribution to UNFPA from other resources is nothing more than an accounting device that is a vain attempt to mask the fungibility issue. Any money for UNFPA contributes to their capability to assist the Chinese program.

The committee bill will also negate the standing Mexico City policy which requires the United States to maintain a wall of separation between family planning and abortion.

Members might be interested to know that over 400 foreign nongovernmental family planning organizations presently work with the Agency for International Development and comply with the Mexico City policy. This number has increased from around 300 in the past year.

With the Mexico City policy in place, AID is the largest family planning donor in the world. It has activities in 85 countries, and provides about 45 percent of the total donor assistance for population programs.

Only two family planning organizations have refused to comply with the Mexico City policy, the International Planned Parenthood Federation and the Planned Parenthood Federation of America. They are the only groups that insist there be no distinction between family planning through contraceptive services and promoting abortion as a family planning method.

The administration has clearly stated its intention to veto a bill which attempts to weaken the policy and tear down the wall of separation between programs that offer contraceptive services and those promoting abortion. It is irresponsible to doom this bill to a veto that will be upheld by including these controversial provisions.

Support the Smith amendments on the Kemp-Kasten law and the Mexico City policy.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. MCEWEN. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. This is not about abortion. That is what most of the debate is about, but that is not what the bill is about or what the money is about.

There is no money in this bill for abortion. There is no money in this bill for Chinese action for any purpose, family planning or whatever.

What this amendment, if it passes, would do is deny families through UNFPA.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from Ohio [Mr. MCEWEN] has expired.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio [Mr. MCEWEN] have 1 additional minute.

Mr. FEIGHAN. Mr. Chairman, reserving the right to object, we adopted a policy not to allow any extensions.

Mr. MCEWEN. How about 15 seconds?

Mr. FEIGHAN. Mr. Chairman, reserving the right to object, I must continue the objection.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield 30 seconds to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I just want to correct one statement that my friend from Ohio made. That is, that this would free up money for the UNFPA to give more money to China. My amendment has a cap on it, so that China could not receive any more than $10 million. If it did, the UNFPA would have to return all the money the United States had provided.

I hope the RECORD will show the correction that has been made.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Kostmayer amendment and to oppose the Smith amendment.

I led a congressional delegation to the Mexico City U.N. Population Conference in 1984. The gentlewoman from Colorado [Mrs. SCHROEDER], the gentleman form Wisconsin [Mr. MOODY], the gentleman from Michigan [Mr. LEVIN], and the gentleman from Illinois [Mr. PORTER] all accompanied me. We were both shocked and horrified at the enunciation of the Mexico City doctrine, and we took the unusually painful step of holding a press conference there, proclaiming to the world our adamant opposition to this policy and our conviction that it did not represent the will of the American people. It was embarrassing then, my colleagues, and it is embarrassing now.

This whole debate should not be about abortion. We are not funding abortion abroad. The UNFPA does not fund abortion anywhere. The UNFPA has certified time and time again that they are not funding abortion, rather they are funding family planning. This is a respected professional in the U.N. agency, and yet the administration treats their statements and assurances with indisguised contempt.

As far as the effect of the Smith amendment on our own family planning institutons, it is total. We have denied funding to the two major planning institutions in the world; yes, to the Planned Parenthood Federation in this country and to the International Planned Parenthood Federation in London. Why? Because if any one of the 130 very loosely associated affiliates of International Planned Parenthood Federation in London were to engage in supporting abortion counseling and abortion activities with their own funds, privately raised, or with their own government's funds in the 80 countries where abortion is legal, then, not only would that affiliate be proscribed from receiving AID funds, but also the parent organization, IPPF, in London and all of the other 129 affiliates would also be proscribed from receiving U.S. AID funding.

This is the state of our family planning activities abroad. We deny aid to the United Nations, and we deny aid to the most prestigious and responsible and professional family planning institutions in the world.

What is the result? Since 1984 the number of unwanted pregnancies has risen, and, as a consequence, the number of legal and illegal abortions has also risen. The population of the developing world countries has increased 25 to 30 percent. In Kenya and in Jordan, the population has increased 50 percent. My colleagues, as a result of this virtually unabated population explosion in the Third World—with young parents wholly unable to achieve their family size goals due to the pervasive absence of family planning services—the world is awash in tragedy, pain, sorrow, and human suffering of unbelievable proportions. We simply cannot house, feed, provide basic health care, or educate the human product of this uncontrolled population growth.

My colleagues, across the length and breadth of sub-Saharan Africa, due to their total inadequate family planning programs, there is an average population increase annually of about 3 to 3½ percent. In a few countries like Jordan and Kenya, it is 4 percent or more. Now, at the same time, they have an increase in food production of about 1-percent annually. It does not take a nuclear scientist to figure out the difference between the 1-percent increase in food production and the 3- to 3½-percent population increase. The difference is a minimum 2 percent per capita annual cumulative deficit in food availability for every man, woman

and child in sub-Saharan Africa. That, over a period of a decade, will result in a 20-percent loss in per capita food availability. This fact is contributing to those awful, painful, tragic pictures that we see on our television. These images are only a precursor of a level of tragedy and human suffering threatening us in years to come that is utterly indescribable.

It is time for the United States to reverse this embarrassing policy of 1984 and follow an enlightened course that will resume funding and leadership for safe and sensible family programs in Third World countries where they are desperately needed. For the sake of families around the world, let us resume our role as the world leader in international family planning by reversing the Mexico City policy.

The lady from Kansas, JAN MEYERS, was right on the mark in her remarks a few minutes ago. If the United States does not give leadership to build up the strength, effectiveness, and acceptability around the world, of family planning, no other country can or will. We abandoned our leadership in 1984. No country has filled the vacuum. The globe needs enlightened leadership—and between $1 and $2 billion—to be addressed to galloping population growth in the Third World. Our failure to provide this leadership is a global tragedy and a national shame.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Smith amendment. I want to associate myself with the strong statement that the gentleman from Missouri [Mr. EMERSON] made.

Mr. Chairman, I rise today in opposition to language in H.R. 2508 that would reverse two extremely important pro-life policies—the Kemp-Kasten anticoercion law and the Mexico City policy. This bill would overturn the Mexico City policy by requiring the Federal Government to provide family planning assistance to organizations regardless of methods they employ. It also earmarks $20 million in funding for the U.N. population fund [UNFPA], which organization is an active participant in, and enthusiastic supporter of, China's coercive population-control program. Mr. Chairman, the Kemp-Kasten anticoercion law in effect since 1985 specifically prohibits the provision of international population control funds to any organization or program which supports or participates in the management of a program of coercive abortion or involuntary sterilization. The Mexico City policy, in effect since 1984 and recently upheld by the Supreme Court, states that no U.S. Agency for International Development [AID] funds will be provided to a foreign nongovernment organization that "performs or actively promotes abortion as a method of family planning." The UNFPA continues to violate both of these policies by participating in China's population control program. I think it is important to note that every dollar withdrawn from the UNFPA in the past has been reprogrammed to other family-planning projects that do not utilize abortion as a method of family planning. I urge my colleagues to strike the language in the bill which would overturn the Kemp-Kasten anticoercion law and the Mexico City policy and would earmark $20 million for the UNFPA.

□ 1220

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I am very happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to join with the gentlewoman in her remarks and in her sentiments.

I, too, rise in opposition to the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] and in strong support of the amendment of the gentleman from New Jersey [Mr. SMITH].

I, for one, do not feel that the American people would like to see their taxpayer dollars going to pay for abortions, not only here in the United States, but elsewhere in the world. Therefore, it is necessary to preserve the present Mexico City policy and also the policy we have had in the past as far as funding for the U.N. Family Planning Commission, which supports abortions in China.

So I wish to join with the gentlewoman.

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman from Missouri, and I yield back the balance of my time.

Mr. ATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Kostmayer amendment.

One thing ought to be very clear here, that China does have a coercive policy on abortion. The Chinese policy has been one that has violated very basic human rights. The conditions, the coercion, the problems that have occurred in that program are clearly the worst in the world and we ought to address them.

Indeed, the Kostmayer amendment allows us to address the problems in the China program. The Kostmayer amendment would effectively put a cap on the U.N. contribution. There would be not a cent of U.S. money in it. It would effectively put a cap on the U.N. contribution to China of $10 million.

So if you are interested in dealing with the problem of coercive abortions in China, one would want to support the Kostmayer amendment.

What the Smith amendment does is it seeks to punish 139 other countries in the world for the sins of China, for the sins of the Chinese program.

Are the Chinese going to care about the problems and the misery that they create in India or in Bangladesh or in Haiti? Of course not. They have made it very clear that they care nothing about human rights. Human rights violations in China do not just extend to their coercive abortions and their family planning programs. They extend to what they are doing in Tibet, what they did to their own students, what they have done to dissent, the way they have destroyed their judicial system and perverted it.

If you want to deal with human rights abuses in China, let us deal with it by going after China, not going after the United Nations, and let us go after China in the real way where it will make a difference, where everybody knows that China will feel it and where we have a chance of exercising some leverage, and that is in their MFN status.

It is absolutely absurd that the President on the one hand says no money to the United Nations, to punish China even though the United Nations provides the only alternative and the only voice in the Human Rights Commission against the coercive policies in China, but will deny China in this area which is strictly symbolic and has no effect; and on the other hand will grant them the MFN status they so desperately want.

China has a $15 billion trade surplus with us. If you want to begin to deal with the problem in China, take on MFN.

I will be glad to join with the gentleman from New Jersey in putting a provision on MFN which would restrict that if China does not change their coercive abortion policies. That would make a difference. That would send a signal to China.

What the Smith amendment does is a very cruel hoax on the people. It would deny 19 nations of Africa, the most desperately poor nations of Africa, family planning assistance, and would deny it to Bangladesh, to India, to countries that desperately need this assistance, to get China's attention.

It would not get China's attention, not one bit.

Let us be real in this amendment. Let us deal with the problem and support the Kostmayer amendment which will effectively put a cap on the UNFPA program in China, will assert our ability to assure that that program remains as it is now, one that does not allow for abortions and one that provides the only alternative in China to the coercive abortion program.

Let us use our leverage. Let us use it wisely.

The Smith amendment would be the cheap way out. It would hurt Africa, do nothing to China, do nothing to China's coercive abortion program.

We have a chance to use our leverage in MFN. Let us use it there. Let us not try to punish Africa for the sins of China.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Kostmayer amendment to the Smith amendment, to protect the family planning provisions of H.R. 2508, which restore U.S. funding to the U.N. population fund [UNFPA]. UNFPA is the largest multilateral family planning assistance provider to developing countries, and was established in 1969 with strong backing from the United States. In 1990, UNFPA provided assistance to 138 countries, with donations from 106 countries. Major donors include Japan, Germany, The Netherlands, Norway, Sweden, Finland, Denmark, Canada, the United Kingdom, Switzerland, and Italy.

Once the leading donor to UNFPA, the United States curtailed its contributions in 1986 because of allegations of UNFPA support for coerced abortion and involuntary sterilization in China's family planning program. This action came despite the fact that UNFPA has consistently opposed coercive policies, and has explicitly stated this view in all program documents, indicating that all UNFPA projects must be consistent with internationally and nationally recognized human rights, and "that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so."

In addition, the Agency for International Development staff review of UNFPA concluded that it neither funds abortions nor supports coercive family planning through its operations.

In fact, almost all of UNFPA assistance to China is administered by other United Nations organizations and by international nongovernmental organizations, such as the World Health Organization and UNICEF. UNFPA does not manage the Chinese Government's population program. Assistance from UNFPA totals less than 1.1 percent of the total cost of the China Program, and UNFPA has control only over its own funds which are earmarked for specific purposes, such as providing better quality contraceptives, and extending maternal and child health and family planning assistance to the poorest counties where infant mortality rates are the highest. These activities have resulted in fewer unwanted pregnancies, thereby resulting in fewer abortions.

Further, H.R. 2508 prohibits the use of United States population funds in China. Because the UNFPA Program in China has fixed funding for 4 years, the argument that United States funding will free up more UNFPA funds for China is also without merit.

Just several weeks ago, a coalition of major environmental, conservation, family planning, scientific, and women's organizations launched one of the largest cooperative efforts ever undertaken to raise public awareness of the devastating effects of overpopulation. This effort grew out of the recognition that the environmental and social consequences of overpopulation are not being adequately addressed.

The world's population now exceeds 5.4 billion people. More than half of this number will be of reproductive age within the next 25 years. As a result, what we do in this decade will determine the population growth for the next century * * * whether it is held at 10 billion or whether it explodes to more than 14 billion. Population control is contingent on the availability of voluntary family planning assistance. Such a commitment is needed in order to curtail global poverty, illiteracy, environmental degradation, unemployment, and civil unrest.

The world fertility survey indicates that 500 million women want and need family planning, but lack either education, information, or the means to obtain it. Many of the 42,000 infants who die daily are victims because their mothers are not allowing appropriate intervals between pregnancies. Every day 1,500 women die from complications of pregnancy and abortion, many of which could have been prevented by family planning.

It is imperative that the United States once again become a full and active partner with the United Nations in the vital efforts to assure couples of the basic human right to determine how many children they will have and when they will have them. As a cosigner of the Amsterdam declaration, the plan for stabilizing world population by the year 2000, the United States made the commitment to dedicate approximately 4 percent of its foreign aid to population assistance; we currently provide only 2.2 percent. The $70 million increase provided in this bill will help to move us toward this goal.

I urge all of my colleagues who are concerned about the quality of life of future generations to vote to retain the family planning provisions of H.R. 2508. It is a vote that will go a long way toward determining the condition of the world that our children and grandchildren will inherit from us.

□ 1230

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Ms. SLAUGHTER of New York. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, I thank the gentleman for yielding.

And I want to be very succinct here today. This Congress sometimes reminds me of "Alice in Wonderland," able to believe 16 impossible things before breakfast.

We can believe, some of us, that a bill that outlaws quotas is a quota bill and a bill that says money may not go to China, indeed is going there.

I want to be very specific about one major concern that I have here because we pass over it. The World Watch Institute issued a report that said 1 million women die every year in the developing world because of reproductive complications. That is 1 million. Two hundreds and fifty thousand of those women die because of botched abortions or self-induced abortions. All they are looking for is information on how to space their families and to plan their lives. That is such a harsh and cruel method of birth control to say that the Congress of the United States and the administration does not care that 1 million women die every year during their child-bearing years when information that we could give them for $1.50 a year could probably save their lives.

We cared deeply when the people of Kuwait were in trouble; it broke our hearts to see the Kurdish children dying on the wayside; every year or two it seems to me we see the people in Bangladesh standing up to their necks in water. All of these people desperately, in Third World and evolving countries, are trying to get some control over their lives. We know that we will never solve the problems of world hunger if we do not give some kind of control over their lives and family planning information.

It seems to me to be humane, it seems to me to be decent.

We have watched what happened with repeated forced pregnancies in Romania and pathetic Romanian children left to suffer; we watch people with disease in Peru, again women sitting by bedsides while their children die and unable to feed them, unable to clothe them. No hope in the world of an education.

The money that we do not spend on family planning is not going to educate those millions of children born in the world who have no hope at all of any sort of life except the one that their parents had before them—hunger and poverty.

I challenge every person in this Congress and every person in this administration who has not been pregnant to give a little thought to what they are doing here and ask yourselves what you would have wanted for your wife and for your daughter or someone else in your family who died because information so cheap and so easy to come by was denied to them.

Mr. Chairman, I urge support for the Kostmayer amendment.

Mr. WEISS. I thank the gentlewoman for her statement.

Mr. Chairman, I rise in support of the Kostmayer amendment, in opposition to the Smith of New Jersey amendment.

Mr. WEISS. Mr. Chairman, I want to address briefly, very briefly, the statement—the letter really—that the gentleman from Ohio [Mr. MCEWEN] read from the President which suggested that unless something equivalent to the Smith amendment were passed, that this legislation would be vetoed.

Well, I must say how do you define hypocrisy? How do you take note of the fact that when our President was a Member of this body, he carried all the family planning legislation and all of a sudden he is vetoing a piece of legislation which is a red-herring in its very terms; no money for abortion, nothing for China. And yet that is the way in which it is being cast.

How do you explain the hypocrisy implicit in a President and people who are so concerned about the violation of human rights, which this amendment is supposed to cure, but which does not, but when it comes to most-favored-nation treatment, then everything—the murder of students, the trumped-up trials, the abuse of their own citizens, every imaginable violation of freedom of speech, freedom of assembly, you name it, every violation takes place in China—and the President thinks that is OK, he is willing to forgive that.

Mr. Chairman, I urge support of the Kostmayer amendment.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are tragically speaking past one another here. Our side quotes a respected scientist who talks about violent, murderous, coercive abortion, the genocide of an entire people in the nation of Tibet under the control of China. On the other side, they are pointing to the decline in population, the drastic decline in population, in Western Europe and Japan. You see documentaries on television every night talking about the growth of population in poor countries and suggesting that there is a way to get money to an organization like the United Nations family planning activities group by keeping a deaf ear to that group's leaders continuous approval of the infanticidal policies that go on in China and spill over terribly into India. In that country, objective documentary reports by liberal reporters of conscience are pointing out that India is now adopting the Chinese policy of killing babies—living, breathing babies with human rights who have already been born.

That is called killing infants—infanticide. And in India they are rivaling China's centuries-old policy of degrading women by killing female babies. In India, if they come up with an amniocentesis test that says it is a female child, she is doomed.

I quote from a liberal reporter of great reputation, Mark Fineman, in the Los Angeles Times article, "Creating a Mosaic of India." He was writing about their census.

He says, "It is simply that women in India continue to rank among the world's most endangered species, dying off in increasingly faster numbers than Indian men as a result of neglect, murder, and in the past decade, rampant fetacide." That is abortion, killing babies in the womb. In India today there are only 929 women for every 1,000 men. In America it is 1,050 women to every 1,000 men, which is more than the world standard. And he says India now has the second-lowest ratio of women to men in the world, of course behind China, a nation infamous for widespread female infanticide.

Well, why do we talk about China and India and killing babies and killing female fetuses in the womb? Because the head of the U.N. population family planning activities group says that China's policy is totally voluntary.

□ 1240

Mr. Chairman, I may do a special order on this tonight because I have about 25 quotes here, all from the Washington Post, Los Angeles Times, New York Times, not from religious fundamentalist groups. These are all out of the supposedly objective, secular press.

Now listen to this. This is Blake Kerr in the Washington Post, "Witness to China's Shame."

> The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences * * *. The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out * * *. We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible * * *. Since 1987, there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area.

The UNFPA says all of that nightmarish slaughter is voluntary.

Mr. Chairman, no one has worked harder on this than the gentleman from New Jersey [Mr. SMITH]. That is why I rise against the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] which guts and destroys the Smith amendment.

Mr. Chairman, the gentleman from New Jersey [Mr. SMITH] personally met with Peng Peiyun, head of China's Family Planning Commission in Beijing on March 27, 1991, and Dr. Nafis Sadik, executive director of the U.N. population fund in New York. I am dismayed by the sameness of their argument. To hear one is to hear the other. The bottom line is that both the Chinese Government and the U.N. population fund declare that the program is "totally voluntary" which, of course, is a lie.

I ask my colleagues to consider this: On May 24, 1989, Dr. Sadik of the UNFPA said, "The UNFPA firmly believes and so does the Government of the People's Republic of China, that their program is a totally voluntary program."

A few months later, Dr. Sadik said it again on the November 22, 1989, broadcast of the CBS Nighwatch television program: "The implementation of the policy [in China] and the acceptance of the policy is purely voluntary."

It is clear, based on these kinds of statements and the millions of dollars they've invested in the Chinese Program that the UNFPA has been, and continues to be, the leading international supporter and apologist for China's brutal program.

Mr. BERMAN. Mr. Chairman, will the gentelman yieled?

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr DORNAN] has expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. DORNAN of California was allowed to proceed for 30 additional seconds.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from California [Mr. DORNAN] for yielding, and I would like to use this time to propose that by unanimous consent this House agree to limit debate on the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] to the amendment of the gentleman from New Jersey [Mr. SMITH] to 30 minutes, 15 minutes of which would be controlled by the maker of the amendment, the gentleman from Pennsylvania [Mr. KOSTMAYER], and 15 minutes to be controlled by the gentleman from New Jersey [Mr. SMITH].

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DORNAN of California. Mr. Chairman, I objected before, but I would not object any further, and I do not think anybody on our side will.

Mr. MOODY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Does the gentleman from Wisconsin [Mr. MOODY] continue his objection?

Mr. MOODY. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania [Mr.

KOSTMAYER] will be recognized for 15 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 15 minutes.

Mr. KOSTMAYER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman and my colleagues, this body often deals in symbols, but this has got to be the most substance-free symbolic debate I think I have ever heard.

Why do I say that?

Because both sides agree on practically everything that has been said in terms of what facts are. But the symbols are different. The abortion debate has been raging here, but we are not really voting on abortion today. The amendment of the gentleman from New Jersey [Mr. SMITH] will not affect abortions, and neither will the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER]. Nor will it affect any U.S. funding for abortion overseas, because there is not any, and there will not be.

Let me make clear where we all agree, both sides. Both sides agree on the following:

No. 1. China has a bad human rights policy. We both agree. This side has argued as though China's bad human rights policies undercut the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER]. I, you, Mr. KOSTMAYER, and everyone knows that China has a bad human rights policy. We should do something about it, and I welcome the gentleman from New Jersey [Mr. SMITH] siding with us to stop most-favored-nation trade access to China when it comes because that would indeed make a difference. This Smith amendment will not.

No. 2. The next thing we all agree on is this: No United States funds in this bill will go to China, with or without the Smith amendment. We all agree on that, and yet one would think from the floor debate that is what is at stake. United States family planning aid funds do not go to China. If the committee mark stands, they will not go to China. If the amendment of the gentleman from New Jersey [Mr. SMITH] stands, they will not go to China.

No. 3. No U.S. AID funds go for abortion. We all agree on that, and that has been the policy for a long time. One would think that we are debating whether or not AID funds should go for abortion. They do not, and they will not, with or without the Smith amendment. That is also totally agreed. The debate so far from the side supporting the Smith policy has had nothing to do with the actual contents of the Smith amendment.

No. 4. We all agree that $10 million and only $10 million of UNFPA money, not—not United States money—does go to China. That is less than 1 percent of their population program and pays for computers, demography, the training of population workers that come mostly to America to get training. That $10 million of UNFPA does not go for abortion in China. One can argue that because those expenditures are in the same country, it might have some impact on abortion, but that is stretching the argument.

But we all agree there is a cap of $10 million of UNFPA money for China, none of it United States. The amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] would cap it, and I think that is probably a good idea to signal our feeling about it. But "Why would you want to vote against such a cap by voting against the Kostmayer amendment?"

No. 5. We also agree that the UNFPA's $10 million from China will neither go up, nor down, regardless of the Smith amendment.

So we agree on all the key facts. Then what are we actually debating on? We are debating on whether or not we want to punish a whole bunch of other countries so that we can register our outrage over human rights, including abortion policies, in China. The $10 million figure would not change. There are already no United States funds for China, nor for abortion.

So the real question comes down to this: "Do you want to pretend to punish China, to beat your breast and say we've done something that looks like we're hurting China." Actually, the Chinese will be totally indifferent to the Chris Smith amendment, the Smith amendment will only punish a whole bunch of other countries by totally defunding United States support for UNFPA. The Smith amendment says that no United States AID money will go for family planning in a whole series of countries other than China where there are only multilateral programs and no United States AID bilateral programs. There are 19 such countries in Africa alone.

So, let us get back to substance, not symbols, and discuss what is really going on here. I ask: "Do you want to punish 30-some countries and not hurt China? If you do, then vote for the Smith amendment. If you want to punish China, nothing before us will do that.

I urge adoption and support for the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] and rejection of the amendment of the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman from New Jersey [Mr. SMITH] for yielding.

My colleagues, I rise in support of the amendment of the gentleman from New Jersey [Mr. SMITH] and in opposition to the amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER].

As I have listened to the debate, and I have been able to be present for most of the debate, I want to say, first of all, there is an issue here of genuine substance, and it is simply this: Shall the dollars of the American taxpayer be directed toward family planning agencies and through family planning agencies that utilize abortion as a means of population control? The issue is not population control writ large. The issue is not family planning writ large. On that we are agreed.

I must say that when the gentlewomen from Kansas [Mrs. MEYERS] said that the United States has to show leadership on the family planning issue, I wondered how much more leadership she wants. We pay 46 percent of all the family planning assistance funds around the globe. The American taxpayer, 46 percent. This bill increases the American outlay the next year by 20 percent. We will be over 50 percent of all the family planning assistance given to developing countries around the world at the American taxpayers' expense.

Now I call that leadership. That is not ducking the importance of the population issue. That is not a head in the sand that says there is not a serious problem that has to be addressed. What the gentleman from New Jersey [Mr. SMITH] is trying to do, and some of us are trying to do, is to say we can do this without resorting to a proabortion policy and calling that family planning.

I heard the gentleman from Pennsylvania [Mr. KOSTMAYER] when he dealt with the issue in Ethiopia, and he attributed the tragedy in Ethiopia to the unavailability of abortion.

□ 1250

I served a year in Ethiopia with the Peace Corps and saw lots of poverty. But I certainly would not attribute it to the abortion issue. In fact, it got worse since I left.

Maybe the gentleman might have focused on Colonel Mengistu's celebration of his 10-year anniverary in power, where, for his 1-week celebration, he spent 20 percent of the entire GNP of the country, to celebrate his 10-year anniversary in power. Twenty percent of the GNP of the country, in what we are told is the second to the bottom of all nations in the world in terms of per capita GNP. Maybe that has something to do with poverty.

When the gentleman from Wisconsin [Mr. MOODY] talked about Bangladesh, we put $46 million a year in family planning assistance into Bangladesh, and it has had some success. The population growth rate has dropped by about 20 percent. It is still perilously high. It was 3 percent in the last 4 or 5 years, and has dropped to about 2½ percent.

The CHAIRMAN pro tempore (Mr. DONNELLY). The time of the gentleman

from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. HENRY. Mr. Chairman, what I want to make clear is that the issue is not family planning. The issue is not American leadership. The issue is placing our funds in agencies and programs which advocate and use abortion as a family planning tool. There is a better path to follow, and that better path is the kind of leadership I would like this Nation to take.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I think the misunderstanding comes when one tries to interpret the word "promote," to promote abortion as a means of family planning. The Reagan and Bush administrations have interpreted this as being an abortion for any reason, except to save the life of the mother.

Mr. HENRY. Mr. Chairman, reclaiming my time, the amendment of the gentleman from New Jersey [Mr. SMITH] clearly addresses and puts a prohibition on those organizations which encourage abortion. I call that promoting.

Mr. KOSTMAYER. Mr. Chairman, I yield 4½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding and for his leadrship on this issue.

Mr. Chairman, what the gentleman from Pennsylvania [Mr. KOSTMAYER] is proposing is that we do in fact address one of the most pressing problems in the world today, family planning. That is all he is doing. Under the Kostmayer amendment, no U.S. money can be used for abortion, only for family planning. Under the amendment of the gentleman, no money can go to China—I underscore that—no money can go to China. And all of the speeches from the other side of the aisle this morning that detail the terrible human rights abuses in China, are in fact understood. And none of these moneys can go to China.

So none of these moneys can go for abortion, and none of these moneys can go to China. We are talking about family planning. What is the argument?

Mr. Chairman, we need to flesh out what is the argument. I say the argument is a smoke screen, that they do not want to debate the issue of family planning, because they know that they would lose, and they do not want to debate the issue of birth control, because they know that they would lose. So they debate a phantom issue, a ghost issue, the issue of abortion, the issue of China. This has nothing to do with what we are talking about.

Mr. Chairman, I would like to read to Members comments made by President George Bush in 1973, in a foreword to a book on the world population crisis. This is what George Bush said in 1973:

Few issues in the world have undergone such a rapid shift in public attitudes and government policies over the last decade as the problems of population growth and fertility control.

My own first awareness of birth control as a public policy issue came with a jolt in 1950 when my father was running for the United States Senate in Connecuticut. Drew Pearson, on the Sunday before Election Day, "revealed" that my father was involved with Planned Parenthood. My father lost that election by a few hundred out of close to a million votes. Many political observers felt a sufficient number of voters were swayed by his alleged contacts with the birth controllers to cost him the election. The subject was taboo—not only because of religious opposition but because at that time a lot of people were unwilling to discuss in public what they considered a private matter.

Today, the population problem is no longer a private matter. In a world of nearly 4 billion people increasing by 2 percent, or 80 million more, every year, population growth and how to restrain it are public concerns that command the attention of national and international leaders. The per capita income gap between the developed and the developing countries is increasing, in large part the result of higher birth rates in the poorer countries.

World Population Crisis: The United States Response recounts and analyzes the events which mobilized the United States leaders to action. Dr. Piotrow presents a story of determined and sometimes disruptive advocates, of conscientious, careful scientists, of political leaders striving to reach a new consensus, of vigorous officials building action programs. It is, above all, a story of individuals and institutions struggling to solve a new kind of worldwide problem within the framework of individual choice and responsible government.

The population problem does not have easy answers. As a member of the U.S. House of Representatives in the late 1960s, I remember very well how disturbed and perplexed my colleagues and I were by this issue. Famine in India, unwanted babies in the United States, poverty that seemed to form an unbreakable chain for millions of people—how should we tackle these problems? I served on the House Ways and Means Committee. As we amended and updated the Social Security Act in 1967 I was impressed by the sensible approach of Alan Guttmacher the obstetrician who served as president of Planned Parenthood. It was ridiculous, he told the committee, to blame mothers on welfare for having too many children when the clinics and hospitals they used were absolutely prohibited from saying a word about birth control. So we took the lead in Congress in providing money and urging—in fact, even requiring—that in the United States family planning services be available for every woman, not just the private patient with her own gynecologist.

I remember another bill before the Ways and Means Committee. This one successfully repealed the prohibition against mailing information about birth control devices or sending the devices themselves through the mails. Until 1970 the mailing of this information had been heaped in with the mailing of "pornographic" material.

As chairman of the special Republican Task Force on Population and Earth Resources. I was impressed by the arguments of William H. Draper, Jr. that economic development overseas would be a miserable failure unless the developing countries had the knowledge and supplies their families needed to control fertility. Congress constantly pressed the rather nervous federal agencies to get on with the job. General Draper continues to lead through his tireless work for the UN Population Fund.

Congressional interest and support in population problems was remarkably bipartisan—including Jim Scheuer, Ernest Gruening, Bob Taft, Bill Fulbright, Joe Tydings, Bob Packwood, Alan Cranston, and many others from both parties and every section of the country. Presidents Johnson and Nixon both were seriously concerned about the problem, too. In fact, early in 1969 President Nixon delivered an official Message on Population to Congress. In the federal agencies there were at first only a few determined individuals like R. T. Ravenholt in AID and Philander P. Claxton, Jr. in the State Department who were willing to urge their superiors ahead. Now the recommendations of the Commission on Population Growth and the American Future, chaired by John D. Rockefeller 3rd, have urged many agencies to take on a larger role and have called for the U.S. government to adopt a national population policy.

When I moved to the United Nations in 1971 as United States Ambassador, I found that the population problem was high on the international agenda, though lacking some of the urgency the matter deserves. The General Assembly had designated 1974 as World Population Year with a major conference of governments scheduled. The UN Fund for Population Activities, which has raised some $50 million, now stands ready to help agencies and governments develop appropriate programs. It is quite clear that one of the major challenges of the 1970s, the Second United Nations Development Decade, will be to curb the world's fertility.

The United Nations population program, including the Fund and specialized agencies, stands today at the threshold of international impact. The problem has been recognized; the organizations exist; the resources are at hand. But policy making on the international level no less than on the national one is an educational process. In developing the programs needed, the public as well as government leaders learn from one another. New technologies lead to new policies and laws, new public and private values, new insights into our own problems as well as those of others. We all proceed by trial and error. Will we learn fast enough from one another and with one another how to defuse the population bomb?

One fact is clear: in a world of nearly 4 billion people, with some 150 independent governments, myriad races, religions, tribes and other organizations, major world problems like population and environmental protection will have to be handled by large and complex organizations representing many nations and many different points of view. How well we and the rest of the world can make the policies and programs of the United Nations responsive to the needs of the people will be the test of success in the population field. Success in the population field, under United Nations leadership, may, in turn, determine whether we can resolve successfully the other great questions of peace, prosperity, and individual rights that face the world.

Dr. Piotrow's study of evolving population policy, in the United States and in the United Nations, is necessarily a story without an ending, it is not a blueprint for the future, but rather a search for the meaning of the past, an exploration of the means, the arguments, the individuals and the events which did, in fact, influence U.S. policy making over the last decade and a half. But the lessons suggested here—about leadership, about innovation, about national and international organizations—surely have continuing application for the future. Dr. Piotrow was in a unique position to observe and even participate in many of the actions taken.

I worked with Phyllis Piotrwo on some of these issues. This book is far too modest about her own efforts, for she has contributed significantly herself to public understanding and support of population activities through her work with the Population Crisis Committee. Certainly the private organizations, like the Population Crisis Committee, Planned Parenthood—national and international, the Population Council, the Population Reference Bureau, the Population Institute, Zero Population Growth, and others, have played a major role in assisting government policy makers and in mobilizing the United States response to the world population challenge that is described in this volume.

Mr. Chairman, this is George Bush in 1973 talking about the importance of birth control, of family planning, of giving information to women who need it. And, Mr. Chairman, this is America, in 1991. We must surely be leaders in 1991.

Mr. Chairman, I agree with the gentlewoman from Kansas [Mrs. MEYERS] on this. We must be leaders in the area of family planning, because that indeed will impact on the major problems facing the undeveloped world.

So this issue that is before us is not what the gentleman from New Jersey [Mr. SMITH] describes it as, about China. We all agree on his points about China. It is about what is happening in the world today to the women of India, Bangladesh, and Pakistan, to the women of Ethiopia who have to watch their children dying. There is no water, there is no food. They are dying.

Do you know what it is to look at your child when he is sick when you are a mother? I can tell you. You wish you could take the child's pain. These women can do nothing to help their children. How much better to have family planning. Family planning is the answer.

Mr. Chairman, let us not take this debate into an area which it has nothing to do with. Let us concentrate it on the approach of the gentleman from Pennsylvania [Mr. KOSTMAYER], which is to use these funds, not for abortion, not for China, but to help the women and children of this world to stop the grief and pain.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, first of all let me remind Members that every dollar that has not gone to UNFPA has been reprogrammed to other family planning organizations, so there has been no loss of family planning funds.

Mr. Chairman, I would like to ask a question of the gentlewoman from California [Mrs. BOXER]. As the gentlewoman knows, since 1979 the United Nations Population Fund has provided in excess of $100 million to China. If they were funding a highly coercive population control program in another country, and that country happened to be the United States, and not China, and if American women were the victims of forced abortion and forced sterilization and other means of humiliation and coercion, would the gentlewoman feel that an earmark for that organization was warranted?

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I am against forced abortion. I am pro choice. That means a woman has the right to choose in the first 3 months of her pregnancy. The Kostmayer amendment that is before us basically says that no money will be used for abortion.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, we are talking about supporting an organization whose executive director says that the Chinese program is totally voluntary. The UNFPA has provided in excess of $100 million to this coercive population control program. They have provided technical and other capabilities to the Chinese so they can do it better. They then stand arm in arm with the Chinese suggesting, and saying outright, that it is a voluntary program, against all of the evidence which we all agree, the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Pennsylvania [Mr. KOSTMAYER], the gentlewoman from California [Mrs. BOXER], all of us agree that it is a coercive program. However, the UNFPA claims it is a voluntary program.

I would ask the gentlewoman from California [Mrs. BOXER], if she would take out "China" and insert "the United States," would you then feel that a simple earmark, a simple apparent fencing of the funds, when an organization has such a hand-in-hand relationship with the government, if it was the United States, would the gentlewoman believe that this earmarking approach, which I happen to feel is a fraud, would be permitted in that case? Take out "China" and put in "the United States."

Mrs. BOXER. Mr. Chairman, if the gentleman will yield further, the gentleman from Pennsylvania [Mr. KOSTMAYER] addresses this issue head on in his amendment, addresses it correctly, and the gentleman from New Jersey [Mr. SMITH] is using this issue to divert attention from the issue that is before us, the suffering of many women and children in this world because they do not have access to family planning. Mr. Chairman, I think the gentleman is doing an absolute disservice to this debate.

Mr. SMITH of New Jersey. Mr. Chairman, I would ask the gentlewoman from California [Mrs. BOXER], is it all right that the United Nations is supporting the program in China?

Mrs. BOXER. Mr. Chairman, I would say what I said to the gentleman before: the gentleman from Pennsylvania [Mr. KOSTMAYER] handles the problem straight on. The fact is, the gentleman from New Jersey [Mr. SMITH] is diverting attention from the issue that is before us, which is family planning, to save the grief, to save the children, to save the mothers. I am very sad that the gentleman has taken this approach. We just do not agree.

□ 1300

Mr. SMITH of New Jersey. With all due respect, that was an extremely evasive answer. The gentlewoman did not answer whether or not if the United States, and not China, had a family planning program, that were coercive, and the UNFPA were involved, would this earmarking scheme then be acceptable?

Mrs. BOXER. We are talking about American tax dollars here. None of our tax dollars can go to New Jersey and none of our tax dollars can be used for abortion.

Mr. SMITH of New Jersey. What is becoming very clear is that Chinese women are second-class citizens. The UNFPA can stand shoulder to shoulder with the oppressive hardliners in Beijing. They can stand shoulder to shoulder with them and say this is a voluntary program which is an absolute lie. And then, we come forward with this fencing modality, with this Kostmayer amendment which guts current policy, and say it is okay.

I would suggest to my colleague and the gentlewoman who could not answer the question, that if this were the United States and not China which was experiencing this coercive population control program, this amendment would be laughed right out of the chamber.

Mr. KOSTMAYER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I want to commend the gentleman from New Jersey [Mr. SMITH] because I think as never before he has drafted language that makes it crystal clear what he is attempting to accomplish here. I once believed that the policy the gentleman was espousing was anti-China. I believe the policy is now very clearly anti-family-planning and anti-U.N.

The language states very clearly that no funds can go to the poor women of Africa, if they are getting funds through the UNFPA for family planning. It states that no funds can go to

women of Asia for maternal and child health. It says that no United States funds can be expended by the UNFPA in Central and South America for contraceptives because of what China does.

The people of Africa, the people of Asia, the people of Central and South America and elsewhere in the world are going to pay the price for what China does. They are the ones that are going to pay for China's policy.

Nobody has a case to make for China. China is doing terrible things. But 137 other nations have their family planning programs that are not coercive, do not encourage abortion. Those nations, those are the ones that are going to be paying. AID has programs in about 40 of those nations, so that the poor people of 100 nations, the women and children across this world who have nothing to do with China, who are not coercing anybody, they are the ones that the gentleman's policy is going to make pay.

UNFPA is not a government. UNFPA is not able to say that China cannot participate in their family planning programs. They in fact must fund them. They must fund all U.N. nations.

Finally, Mr. Chairman, the policy that the gentleman has worked on for the last 6 years has done nothing whatsoever to change what happens to China, but it has done a great deal of damage to family planning all across this globe.

It is a bankrupt policy that is not working. It is a tack that should no longer be pursued. It has become a policy that is not anti-China. It is anti-family planning and anti-U.N. and does not work.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, before the gentleman from Illinois leaves, I would like to say that it is my understanding that the $350 million which we spend, this country spends for contraception around the world, can be spent anywhere in the world where programs exist that do not perform or actively promote abortion.

Now, the United Nations spends its millions in countries, too. Fine. How in the world is our refusal to subsidize an agency that helps manage and control a coerced abortion, coerced sterilization, despotic program, how does our refusal to jump into bed with them deny family planning to women in Africa? The United Nations can still operate its programs.

We are not indispensable to the U.N. operation, and we give to over 400 private organizations that understand the basic distinction that family planning is not abortion. Why the romance with killing unborn children? Why must we support and subsidize organizations that think that killing an unborn child is merely retroactive contraception? Why this love with death?

There are enough organizations in the world that will do family planning as it ought to be done through contraception; the prevention of conception, we do not have to support through the back door or otherwise organizations, even if they have the letters "U.N." on them, that support and subsidize and direct and manage forced abortions.

I cannot think of a worse human rights abuse than taking a women who is pregnant and forcing her to kill her unborn child, and yet the United Nations does it.

The CHAIRMAN pro tempore (Mr. DELLUMS). The Chair would inform the gentleman from New Jersey [Mr. SMITH] that he has 5 minutes remaining, and the gentleman from Pennsylvania [Mr. KOSTMAYER] has 4½ minutes remaining. The gentleman from Pennsylvania has the right to conclude the debate.

Mr. KOSTMAYER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I thank the gentleman for yielding the time to me. I would just like to set the record straight on the role of the UNFPA. There has been a lot of information, a lot of disinformation about the UNFPA.

No. 1, the U.N. Population Fund has a policy on abortion which is exactly the same as the U.S. policy. They do not fund abortions. They have never funded a single abortion anyplace in the world. They do not fund the promotion of abortion.

The second thing is that allegations have been raised about the head of the U.N. Population Fund, Nafis Sadik, that she supports and has endorsed the Chinese policy of coerced abortion. Nothing could be further from the truth.

On the "Nightline" program that the gentleman referred to, she specifically related her meeting with the top leadership in China and her raising her strong objections and concerns, as President Bush did, about the Chinese program.

The United Nations has spoken very loudly and clearly on the Chinese policy.

Mr. KOSTMAYER. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong support of the Kostmayer substitute amendment to the Smith amendment and reaffirm my support for voluntary family planning.

The U.N. Population Fund [UNFPA] is the largest multilateral organization providing voluntary family planning and population assistance worldwide. It provides assistance to more than 140 developing countries.

The UNFPA supports projects ranging from maternal and child health care to programs integrating family planning with parasite control to the expansion of contraceptive services and the training of nurses and doctors.

It must be underscored that UNFPA does not provide any support nor has it ever provided support for abortions or abortion-related activities anywhere in the world.

This important amendment provides assistance to several countries such as Afghanistan, Nicaragua, Hungary, Romania, Poland, and Ethiopia which have no family planning program with the United States Agency for International Development. Moreover, none of these funds will go to China.

Let us bear in mind that an important aspect of U.S. aid to discourage overpopulation which is a danger to quality of life to billions of inhabitants throughout the world.

The world environment has become a vital issue of our time. Population planning assistance is an inseparable part of the solution. Accordingly, I urge strong support of the Kostmayer amendment. Many lives and the quality of life depend on it.

□ 1310

Mr. KOSTMAYER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, this discussion is so polarized it is hard to know if there is any fluidity or reason in it.

This is not money for China. It is money for the UNFPA.

There are parts of the Chinese program I do not like. When I ran the AID program, I did not like it. We did not give any money for China. The UNFPA is not giving money for the parts of the Chinese program we do not like.

What do we do in those circumstances? What the gentleman from New Jersey [Mr. SMITH] is doing is penalizing all the other nations of the world, and all I can say is that anybody who votes against the Kostmayer amendment, I think, must vote to withdraw MFN from China, every single one.

We are trying to find a way to keep pressure on China without punishing other nations here, and the gentleman is just taking a big ax and hurting everybody. If he is going to do that in this case with the UNFPA, I think you have no alternative but to vote across the board without any qualifications, any condition, to withdraw MFN from China.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, let me say that there is absolutely no disinformation from this side of the aisle with regard to the UNFPA.

The gentleman from Massachusetts [Mr. ATKINS] mentioned Dr. Sadik's appearance on what he called the "Nightline" program. It was not "Nightline"; it was the CBS

"Nightwatch" program. On that program on November 22, 1989, she very clearly stated, and I would like to quote it so there is no doubt about it, "The implementation of the policy and the acceptance of the policy is purely voluntary," and, of course, entirety of the discussion focused was on the policy in China.

Let me also point out that the issue before this body is whether or not funding will go to an organization, the United Nations Population Fund, that has been found every year since 1985, each successive year, in a determination by the President to be in violation of the Kemp-Kasten language. Funding to the UNFPA has been cut because the UNFPA has been found in violation of the restriction against organizations supporting and comanaging a coercive population control program. The gentleman from Pennsylvania [Mr. KOSTMAYER] and others say get rid of Kemp-Kasten; get rid of the underlying conditionality, because the UNFPA cannot meet the test, because repeatedly since 1985 they have failed, and they have been found to have been supporting a system of coercion.

Let me read a quote for the Members just to put again in focus exactly what we are talking about here. Laurence Tribe, who is no friend of the right-to-life movement, said, "China has adopted a one-child-per-family policy, a multiplicity of measures including financial incentives, and compulsory abortions are being used" as he says, "to encourage each family to have only one child. China's compulsory scheme has been met with widespread domestic resistance, particularly in the rural areas, and the international backlash has been harsh. Domestic Chinese resistance to abortion in general and compulsory abortion in particular grows from traditional Chinese values. China's one-family-one-child and compulsory abortion policies greatly undermine the well-being of the couples who bear a female child."

That is from Laurence Tribe.

Yet, the United Nations Fund for Population Activities, again as quoted from Dr. Sadik, says that the "UNFPA firmly believes, "firmly believes," and so does the Government of the People's Republic of China, that their program is a totally voluntary program," and to match that view, they have provided in excess of $100 million to that program. I think that is shameful.

Those who will be supporting the Kostmayer amendment will be saying, in essence, it does not matter what the UNFPA is doing in China so long as our money is fenced off in a clever bookkeeping device, notwithstanding their coercion and their complicity in coercion; that is OK for us. But, if we really care about the women in China, if we really care about the families and the children who are being oppressed by this coercive one-child-per-couple policy, we will not provide that earmark. We will vote no on the Kostmayer amendment.

Let me also read very briefly a quote written by John Aird, a U.S. Census Bureau expert who recently published the book, "Slaughter of the Innocents." Dr. Aird clearly explains and lays out for all to see, China's one-child-per-couple policy, and the complicity and duplicity of groups like the UNFPA. He states, "The Chinese program remains highly coercive not because of local deviations from central policies but as a direct and inevitable and intentional consequence of those policies. Foreign organizations and individuals that indiscriminately laud the Chinese program, or provide financial or technical assistance for any aspect of it, are in a position of supporting the program as a whole including its violations of human rights."

Let me also remind my colleagues, and I would ask that this list be made a part of the RECORD, every dollar that has not gone to the UNFPA since 1985 has been reprogrammed. There is a very long list of organizations, population and family planning organizations around the globe, that have been the recipients of these reprogrammed funds to continue contraceptives and preventive means of family planning. Mr. Chairman, I ask that I include the list as a part of the RECORD.

Finally Mr. Chairman, my good friend, the gentleman from Illinois [Mr. PORTER], said that this amendment, my underlying amendment, is antifamily planning. Nothing could be further from the truth. We are providing in this bill $350 million for family planning assistance. Nobody is attacking that number. We are conditioning it with human rights conditions that say the family planning assistance must be voluntary; coercion has no place in a family planning program.

Mr. KOSTMAYER. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, if the membership has heard nothing else, let it hear these three final facts: The UNFPA world budget is 49 percent diverted to maternal and child health care, 18 percent for family planning and education, 33 percent for data collection and analysis; not a single cent goes for abortion, not a cent.

Second, the gentleman from New Jersey [Mr. SMITH] cuts off not only China, he cuts off 137 other countries including Bangladesh, Ethiopia, and India.

Finally, Mr. Chairman, no United States money goes to China. Now, hear this: no United States money goes to China. Not a single dime goes to China. The membership ought to know it before they vote on it.

This is family planning assistance, and in the foreign operations appropriations bill it is furthermore specified that this $20 million can be used for contraceptives only and nothing else.

Ms. PELOSI. Mr. Chairman, I rise in support of the Kostmayer amendment to H.R. 2508, the Foreign Assistance Authorization Act. This amendment would allocate $20 million to the United Nations Population Fund [UNFPA]. This amendment specifically prohibits the use of any funds in China.

The United Nations Family Planning Fund [UNFPA] was established in 1969 with strong encouragement from the United States and is the largest multilateral organization providing voluntary family planning an dpopulation assistance worldwide. It has been a bold leader in expanding the availability and use of modern contraceptive technology and lowering family size in many developing countries. Since 1969, the fund has provided over $2 billion in population assistance to virtually all developing countries. UNFPA assistance to all regions has continued to increase, however, the demand for continued population and family planning assistance from developing countreis far exceed the availability of UNFPA funds.

Mr. Chairman, some of our colleagues do not want the funds to go to UNFPA, but I believe it is imperative that we continue to support UNFPA as we have for the past 20 years. Last year, Congress denied funds to UNFPA and IPPF [International Planned Parenthood Federation] for nonabortion family planning efforts in Romania and agreed instead to provide funds through USAID, to a number of private family planning organizations there. Unfortunately, these organizations were not equipped to provide the much-needed services. Meanwhile, UNFPA is prepared and ready to meet the requests and demands of people of all cultures. Had UNFPA been funded by us, services would have reached the people of Romania promptly and effectively.

The Population Institute estimates that within the next generation, 3 billion people will reach their reproductive years. That number is equal to the total number of inhabitants on this Earth just 30 years ago. It would be difficult enough for an affluent country to accommodate a doubling of its population in 20 to 25 years, yet this is the exact problem facing many developing countries.

According to a recent article from the Massachusetts Institute of Technology's "Technology Review," more than 90 percent of world population growth occurs in the developing world—the nations that are least able to feed, educate, employ, and otherwise provide for their people. The burden of overpopulation in these countries overwhelms any hopes for economic progress.

The lack of family planning services in Third World countries not only affects their economies, but also places extra hardship on the women who face unwanted pregnancies and childbirth. This ultimately limits a woman's ability to be an active participant in the country's economic development.

I believe that the Bush administration has not adequately considered the devastating effects that rapid overpopulation can have on our planet. Rapid overpopulation can lead to swift urbanization, creating overcrowded, pol-

luted and water-short cities; deforestation and lack of food for our children.

Denying family planning services increases unintended pregenancies and abortions and a deterioration of the overall health of women and children. Family planning promotes child survival, protects a woman from the dangers of high-risk and unwanted pregnancies, enhances family life, and is a key part of sustainable development.

UNFPA is an excellent means to improving the health and well being of women and children around the world. I urge my colleagues to support the Kostmayer amendment and restore funding for the United Nations Fund and Population Activities.

The CHAIRMAN pro tempore. (Mr. DELLUMS). All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] to the amendment offered by the gentleman from New Jersey (Mr. SMITH).

The question was taken; and the Chairman pro tempore announced that the nose appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 188, not voting 9, as follows:

[Roll No. 148]

AYES—234

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bentley
Berman
Boehlert
Bonior
Boucher
Boxer
Brewster
Brooks
Brown
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dixon
Dooley
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Neal (NC)
Nichols
Oakar
Olin
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Porter
Price
Rangel
Ravenel
Reed
Richardson
Riggs
Rose
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Zeliff
Zimmer

NOES—188

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Borski
Broomfield
Browder
Bruce
Bunning
Burton
Byron
Callahan
Camp
Chapman
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Fields
Gallegly
Gaydos
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mavroules
Mazzoli
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Perkins
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—9

Davis
Dingell
Dymally
Hopkins
Kolter
Martin
Rostenkowski
Roukema
Yates

□ 1339

The Clerk announced the following pair:

On this vote:

Mrs. Roukema for, with Mr. Davis against.

Messrs. EMERSON, SMITH of Oregon, and PURSELL changed their vote from "aye" to "no."

Mr. HERTEL, Ms. OAKAR, Ms. KAPTUR, and Mr. SCHIFF changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1340

AMENDMENT OFFERED BY MR. BERMAN TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY, AS AMENDED

Mr. BERMAN. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. BERMAN to the amendment as amended, offered by Mr. SMITH of New Jersey: In the text proposed to be inserted by the amendment, strike out paragraph (2) and insert in lieu thereof the following:

"(2) to any foreign nongovernmental organization which uses (or if any such funds were made available, would use) funds provided by the United States Government to perform or actively promote abortion as a method of family planning.

Funds made available to carry out this title or chapter 1 or chapter 2 of title V that are made available for population planning activities shall not be denied to nongovernmental organizations or multilateral organizations on the basis of any criterion that is not applicable to foreign governments that receive such funds.

Mr. BERMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Florida, the chairman of the committee.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I rise to see if we cannot get an agreement here on the debate time on this amendment.

I would like to suggest to my distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican, that we take 30 minutes on each side on this amendment.

The CHAIRMAN pro tempore. The Chair would like to clarify the unanimous-consent request. Is the gen-

tleman talking about the Berman amendment to the Smith amendment, limiting debate on the Berman amendment to the Smith amendment, to 30 minutes?

Mr. FASCELL. Mr. Chairman, let me make that 20 minutes on each side.

The CHAIRMAN pro tempore. Twenty minutes on each side?

Mr. FASCELL. So, Mr. Chairman, my unanimous-consent request would be that debate on the Berman amendment and any amendment thereto be limited to 40 minutes, 20 minutes on this side, the time to be controlled by the gentleman from California [Mr. BERMAN] and 20 minutes on that side, the time to be controlled by the gentleman from Michigan [Mr. BROOMFIELD].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida [Mr. FASCELL]?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. BERMAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is offered by the gentlewoman from Kansas [Mrs. MEYERS], the gentlewoman from Maine [Ms. SNOWE], the gentleman from Massachusetts [Mr. ATKINS], and this gentleman to the second part of the Smith of New Jersey amendment, that portion of the Smith amendment which rescinds and wipes out the committee action which overturns the Mexico City gag rule policy.

The effect of supporting this amendment will be to leave the underlying Helms law, the law that is now codified, that is on the books, sponsored by the gentleman from the other body, which makes it illegal for U.S. Government funds in our family population programs to be used to perform or to promote abortion. But it would not affect and seek to regulate the funds expended by non-governmental organizations in any fashion other than that which we regulate the expenditure of funds by foreign governments whom we provide population control and family planning funds for.

Before I speak further on this legislation, I yield 4 minutes to a cosponsor of this amendment, the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, the so-called Mexico City policy cripples American family planning efforts.

When we in this House decide whether to approve or disapprove a policy, we should first understand exactly what the policy says. The specific language of the Mexico City policy says that the United States shall give no family planning assistance to any nongovernmental organization that "promotes" abortion as a method of family planning. It has been interpreted by the Reagan and Bush administrations as meaning that no American assistance can go to an organization that uses its own funds for any abortion-related activity, including referring a woman to where she can get a legal abortion if she asks for the information. If you look up the word "promote" in the dictionary, you will see it means "advocate" or "urge the adoption of." None of the family planning organizations denied funding by the Mexico City policy advocates the use of abortion for family planning. They advocate contraception. This is not a debate about abortion. It is a debate as to whether the most effective private family planning organizations in the world, who specialize in delivering birth control services to women, will receive American financial assistance.

The Mexico City policy does not affect the over 30 governments that receive direct population assistance from the United States under bilateral agreements with AID. They can do anything they want with non-U.S. funds, but private organizations are discriminated against. In fact, Egypt, India, Nigeria, and Kenya are countries that have bilateral agreements with AID and allow abortion, yet the private organizations are restricted by the Mexico City policy. In fact, because they must comply with the Mexico City policy, they run the risk of breaking the local law. This is cultural imperialism.

There is absolutely no justification for this double standard. Private, indigenous family planning organizations are just as capable of meeting the same standards as governments in ensuring that no American money is used to promote abortion. To prohibit these private organizations from receiving American support is to hinder the most innovative and effective means of getting family planning information to the women of the developing world.

The opponents of this amendment will say that the Mexico City policy does not prevent family planning because all the money gets spent eventually on population programs. They are wrong. This policy prevents American aid to many countries where family planning is desperately needed. Let us look at one organization that was defunded by the Mexico City policy, the International Planned Parenthood Federation. Although the shortfall caused by U.S. withdrawal of funds was partially made up by other donors, IPPF was forced to cancel plans to establish family planning programs in almost a dozen countries, several of which do not have any AID program. What were these countries, and how badly do they need family planning? Malawi, with a birthrate of 52 per 1,000 population, and an annual population increase of 3.4 percent; Niger, with a birthrate of 51 per 1,000 and an increase of 3.3 percent; Chad, 44 per 1,000, and an increase of 2.5 percent; Guinea-Bissau, 43 per 1,000, and a 2-percent annual increase; Angola, 47 births per 1,000 people, and an increase of 2.8 percent; Burundi, a birth rate of 47 per 1,000, and an increase of 3.2 percent; Cameroon, with a rate of 42, and a 2.6-percent annual increase in population; Gabon, 39 births per 1,000, and a 2.3-percent increase; Cape Verde, with 40 births per 1,000, and 3.2 percent; Sao Tome and Principe, a 35 per 1,000 birth rate, and a 2.8-percent annual increase; and Equatorial Guinea with 43 births per 1,000, and a population increase of 2.6 percent per year. Only Niger and Burundi have bilateral population agreements with AID, although Chad, Malawi, and Cameroon are serviced by organizations that follow the Mexico City policy. Is anyone going to say the rest of these countries can do without our family planning help?

Just consider Bangladesh, Mr. Chairman. It has a population of 118 million and a growth rate of 3 percent. In 24 years their population will double. Can you imagine the population of the United States trying to fit in a country that size? That will be the case if we do not make every effort to curb population growth.

For 6 years we have given no assistance to the most technically proficient, well organized groups that specialize in family planning. With the threat of overpopulation so great, we must be part of the solution. We haven't been part of the solution, we've been part of the problem.

In debating issues in Congress, we often forget that we are not talking about abstractions. A woman in Africa has a 1 in 21 chance of dying from a pregnancy-related cause. If that ratio were applied to the House, 21 of our colleagues would have died or would have had their wife die during pregnancy. This policy withholds needed medical advice from women. Real women are dying because the Mexico City policy deprives them of access to the health care they need. This amendment must be agreed to.

□ 1350

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment of the gentleman from California [Mr. BERMAN] that is before us reverses the Mexico City policy, a policy that was first announced back in 1984 at a population conference in Mexico City under the auspices of the United Nations. Hence its name, Mexico City policy. The Mexico City policy in my view is both pro-child and pro-family planning. It is a humane policy that effectively separates abortion from family planning and international population con-

trol programs. It prevents donations, Mr. Chairman, to those nongovernmental organizations that perform or actively promote abortion as a method of family planning. According to the Agency for International Development, the number of NGO's that have accepted the Mexico City policy has actually grown in the last year, from about 300 NGO's to approximately 400 currently.

Mr. Chairman, I would just point out to the membership, to those who say that somehow we are cutting family planning, and I will be making this a part of the RECORD. I have in front of me a list of those NGO's that have accepted the Mexico City clause and are currently involved in a number of countries throughout the world in the provision of family planning services.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991

Country	Host Institution
Argentina	Fertilab S.A.
Argentina	Jose Penna Hospital.
Bangladesh	Anannaya Mohila Samity.
Bangladesh	Assoc for Community Health Svc.
Bangladesh	Ban Jatiyo Mohila Sangstha.
Bangladesh	Bang Social Work Teachers Asso.
Bangladesh	Bangladesh Pop Association.
Bangladesh	BAVS.
Bangladesh	BFRP.
Bangladesh	BPKMS.
Bangladesh	Chitra Mohila Samity.
Bangladesh	ICDDR/B.
Bangladesh	Ins of Soc Welfare Research.
Bangladesh	Islamic Organization Fam Welfr.
Bangladesh	Jono Sheba Poribar Porikalpana.
Bangladesh	Madaripur Female Welfare Assoc.
Bangladesh	Moulvibazar Pourashava.
Bangladesh	PCA.
Bangladesh	PROSHANTI.
Bangladesh	SHIMANTIK.
Bangladesh	Srimangal Pourashava.
Bangladesh	Sukhi Paribar.
Bangladesh	Swanirvar Bangladesh.
Bangladesh	Tilottoma Voluntary Womens Org.
Bangladesh	Voluntary Family Welfare Assoc.
Bangladesh	Voluntary Paribar Kallayan.
Bangladesh	Women for Improved Family.
Belize	Belize Family Life Assoc.
Bolivia	Centro Medico Cruz del Sur.
Bolivia	Centro Medico Familiar.
Bolivia	CIES.
Bolivia	Clinica San Pablo.
Bolivia	COBREH.
Bolivia	INPRARES.
Bolivia	Inst de Endocrin y Repr Humana.
Bolivia	San Marcos University.
Brazil	ABEPF.
Brazil	ABRAMGE.
Brazil	Assoc Brasileira Enfermag.
Brazil	BEMFAM.
Brazil	Carmen Helena Snel.
Brazil	CEMICAMP.
Brazil	Cen Estud Trein Repro Humana.
Brazil	CENPLAFAM.
Brazil	Centro Medico Infantil.
Brazil	CEPECS.
Brazil	CEPPD.
Brazil	CNBL.
Brazil	Conf Bras de Saude.
Brazil	Consuelho Londrinense (CLAM).
Brazil	CPAIMC.
Brazil	FEBRASGO.
Brazil	Federal University of Paraiba.
Brazil	Federal University of Parana.
Brazil	FLASOG.
Brazil	Fumdacao Emilio Odebrecht.
Brazil	Fund Universidade do Amazonas.
Brazil	Hospital das Clinicas.
Brazil	Maternidade Climerio Oliveira.
Brazil	Maternidade Encruzilhada.
Brazil	Maternidade Lago.
Brazil	Maternidade Tsylla Balbino.
Brazil	Pro-Mulher.
Brazil	PROFAM.
Brazil	PROPATER.
Brazil	Santa Maria Inst of Repro Hlth.
Brazil	School of Med Sciences Alagoas.
Brazil	SERGIR.
Brazil	Soc Bras de Reproducao Humana.
Brazil	Subregional Diar Dis Ctrl Mtg.
Brazil	Unidade Nonoai.
Brazil	Universidad Federal da Bahia.
Burkina Faso	IHPS.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991—Continued

Country	Host Institution
Cameroon	Cameroon Baptist Convention.
Cameroon	University of Yaounde.
Chile	Hospital Juan Noe.
Chile	Hospital Sotero Del Rio.
Chile	ICMER/CPNDS.
Chile	Inst Chileno de Medicin Repro.
Chile	Universidad Austral de Chile.
Chile	Universidad Catolica de Chile.
Colombia	ACEP.
Colombia	Cora.
Colombia	Escuela Colombiana de Medicina.
Colombia	FACBS.
Colombia	Hospital Infantil Universitari.
Colombia	Lab de Invest Entemed Vereras.
Colombia	PROFAMILIA.
Colombia	Publicidad Toro.
Colombia	Univ del Valle/Nursing Dept.
Colombia	Univ del Cali/Nursing Dept.
Colombia	University of Antioquia.
Colombia	University of Santander.
Costa Rica	Hospital San Juan De Dios.
Cote d'Ivoire	AIBEF.
Cote d'Ivoire	Center for African Family Stds.
Cote d'Ivoire	CERCOM.
Cote d'Ivoire	Hospital Protestant de Dabou.
Cote d'Ivoire	IFCAD.
Cote d'Ivoire	Univ of Abidian/Fac of Medicin.
Dominican Republic.	CINSERHA.
Dominican Republic.	Hosp de Nta Sra de Altagracia.
Dominican Republic.	Profamilia.
Ecuador	AMIDEM.
Ecuador	APROFE.
Ecuador	CEPAR.
Ecuador	INPPARES.
Egypt	Ain Shams University.
Egypt	Al Azhar University.
Egypt	Alex Comprehensive Model Clin.
Egypt	Alexandria Family Plan Assoc.
Egypt	Alexandria Univ-Fac of Medicin.
Egypt	Boulak el Dakrour Hospital.
Egypt	Center for Development Commun.
Egypt	El Galaa Teaching Hospital.
Egypt	Family of the Future.
Egypt	FP CTR/Misr S/W Company Hosp.
Egypt	ITRFP.
Egypt	Radaresearch.
Egypt	Shatby Hospital.
Egypt	SPAAC.
El Salvador	ADS.
El Salvador	AMIDEM.
El Salvador	GAMMA.
Gambia	CAFS.
Gambia	Gambia Family Planning Assoc.
Gambia	Gambia Home Economics Assoc.
Ghana	Komfo Anokye Hospital.
Ghana	Korle Bu Teaching Hospital.
Ghana	Kotobaabi Clinic.
Ghana	Mamprobi Polyclinic.
Ghana	Univ Sci and Tech Kumasi.
Ghana	University of Science and Tech.
Ghana	Ussher Clinic.
Guatemala	APROFAM.
Guatemala	FLASOG.
Haiti	AOPS
Haiti	CEGYPEF.
Haiti	Centre Haitiano-Arabe.
Haiti	Hosp Immaculee Conception.
Haiti	INHSAC.
Honduras	ASHONPLAFA.
Honduras	IHSS.
India	Child in Need Institute (CINI).
India	Gujarat Institute of Area Plan.
India	Gujarat St Crime Prevntn Trust.
India	Mahila Sewa Trust.
India	Prerana Assoc CEDPA.
India	Salk Institute.
Indonesia	BKS PENFIN.
Indonesia	Forum Indo Untuk Swadaya.
Indonesia	Hasan Sadikin Hospital.
Indonesia	Indo Pop & Envir Ed Assoc.
Indonesia	Indonesia Midwives Association.
Indonesia	Indonesia Public Health Assoc.
Indonesia	Melati Foundation.
Indonesia	PERDHAKI.
Indonesia	PKCK.
Indonesia	PKMI.
Indonesia	Yayasan Flamboyan Pujiastuti
Indonesia	Yayasan Kusuma Buana (YKB)
Indonesia	Zamrodj Foundation.
Jamaica	Jamaica Cancer Society.
Jamaica	Medical Research Council.
Jamaica	Univ of West Indies.
Jordan	Al Beshir Hospital.
Jordan	Princess Basma Hospital.
Jordan	SFWS.
Kenya	African Council Communication.
Kenya	African Medical & Research FDT.
Kenya	Canaan Medical Services Center.
Kenya	CHAK.
Kenya	Delta Media Productions.
Kenya	Edgerton University.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991—Continued

Country	Host Institution
Kenya	Family Life Promotion Services.
Kenya	Family Planning Assn of Kenya.
Kenya	FCI.
Kenya	General Motors Kenya Ltd.
Kenya	Kangaru Clinic and Maternity.
Kenya	Kenya Medical Association.
Kenya	Kenyatta Hospital.
Kenya	Kenyatta University.
Kenya	MYWO.
Kenya	Natl Christ Council of Kenya.
Kenya	PCEA/Chogoria Hospital.
Kenya	Pumwani STD Clinic.
Kenya	Shaani Family Project.
Kenya	The Diocese of Maseno North.
Kenya	University of Nairobi.
Liberia	FPAL.
Madagascar	FISA.
Malawi	PHAM.
Malaysia	General Hospital.
Malaysia.	Pusat Kepakaron Reproductif.
Mali	AMPPF.
Mali	Ecole De Sante Publique.
Mali	INSAH.
Mali	Malian National Women's Union.
Mali	National School of Med & Pharm.
Mali	PMI de Commune IV Piabougou.
Mali	Regional Hospital.
Mauritius	MFPA.
Mexico	AIBIR.
Mexico	AMES.
Mexico	AMFEM.
Mexico	AMIDEM.
Mexico	Association Pro-Ayuda Familiar.
Mexico	CEIPLAN.
Mexico	Centro Ginecologico.
Mexico	Centro Investigaciones Region.
Mexico	Centro Para Los Adolescentes.
Mexico	CIFE.
Mexico	Clinica Del Paseo.
Mexico	CMI.
Mexico	Cong de la Ginoglogia y Obstetr.
Mexico	CORA.
Mexico	FEMAP.
Mexico	FFI.
Mexico	Gernab Sandouval Cruz MD.
Mexico	GIMIESAR, AC.
Mexico	Hospital General de Veracruz.
Mexico	Hospital Universitario Torreon.
Mexico	INN.
Mexico	Inst de Investigacion Cientif.
Mexico	Intl Ctr for Training in Pop.
Mexico	Jocotepec Womens Dev Center.
Mexico	La Liga De La Leche de Mexico.
Mexico	MEXFAM.
Mexico	MIPFAC.
Mexico	PLACIRH.
Mexico	PROFAM.
Mexico	PSFN.
Mexico	Universidad Juarez.
Mexico	CNFRH.
Nepal	FPAN.
Nepal	Nepal Crs Co Ltd.
Nepal	Nepal Fertility Care Center.
Nepal	New ERA.
Niger	Center for African Studies.
Nigeria	ABUTH.
Nigeria	Africare.
Nigeria	Ahmadu Bello Unversity.
Nigeria	Assoc. of Women Volunteers.
Nigeria	Baptist Hospital: Ogbomoshos.
Nigeria	COWA.
Nigeria	Femope Marketing Company.
Nigeria	ICENPFH.
Nigeria	Iyi Enu Hospital.
Nigeria	NUT-Moksons Trading Co Ltd.
Nigeria	Nat Council of Women's Society.
Nigeria	Nat'l Councol for Pop Activity.
Nigeria	PPFN.
Nigeria	U Lagos Teaching Hospital.
Nigeria	U Ibadan College of Medicine.
Nigeria	U Lagos College of Medicine.
Nigeria	U of Benin Teaching Hospital.
Nigeria	U of Nigeria Teaching Hosp.
Nigeria	U Port Harcourt Teaching Hosp.
Nigeria	Univ College Hospital/Ibadan.
Nigeria	Univ Ilorin Teaching Hospital.
Nigeria	Univ Maiduguri Teaching Hosp.
Nigeria	Univ of Calabar Teaching Hosp.
Nigeria	Univ of Ife Teaching Hospital.
Nigeria	Univ of Jos Teaching Hospital.
Pakistan	All Pakistan Women's Assoc.
Pakistan	Behbud Association.
Pakistan	College of Fam Med Peshawar CH.
Pakistan	Darsano Chhano Social Welfare.
Pakistan	Faisalabad Chapter.
Pakistan	FPAP.
Pakistan	IMWA.
Pakistan	Matrnl & Child Welfare Assoc.
Pakistan	Memorial Christian Hosp Sialk.
Pakistan	NGO Coordinating Council.
Pakistan	Pakistan Nurses Federation.
Pakistan	Pakistan Society for Plan Par.
Pakistan	Pakistan Vol Hlth & Nutr Assoc.
Pakistan	Patient Welfare Assoc Baldia.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991—Continued

Country	Host Institution
Pakistan	PMI.
Pakistan	Urban Comm Dvlpmt Council.
Panama	Complejo Hosp Metropolitano.
Panama	Hosp Jose Domingo de Obaldia.
Panama	Hospital Santo Tomas.
Panama	PANAMA OB/GYN SOCIETY.
Paraguay	CEPEP.
Paraguay	INPPARES.
Peru	ADIM.
Peru	APDBFI.
Peru	APROSAMI.
Peru	Asociacion Civil Labor—LABOR.
Peru	Asociacion Cultura La Tortuga.
Peru	Asociacion Peru-Mujer.
Peru	CEDER.
Peru	Celegio Asistenta Sociales.
Peru	Centro Medico Carmen de Legua.
Peru	CPIA.
Peru	Hospital San Juan De Dios.
Peru	Instituto Marcelino.
Peru	Maternidad De Lima.
Peru	PLANIFAM.
Peru	PROFAMILIA.
Peru	SMMISA.
Peru	Univ Peruana Cayetano Heredia.
Peru	Universidad de Lima.
Philippines	ADPCN.
Philippines	AFPTC/CMCP.
Philippines	Ago General Hospital.
Philippines	Ago Medical & Education Center.
Philippines	Cebu Medical Center.
Philippines	CMCP.
Philippines	Davao Medical Center.
Philippines	Fertility Care Center.
Philippines	FP Organization of Philippines.
Philippines	IMCH.
Philippines	Mary Johnston Hospital.
Philippines	Nicanor Reyes Medical Foundat.
Philippines	PAVSC.
Philippines	Philippines General Hospital.
Philippines	Population Center Foundation.
Philippines	Silliman University.
Philippines	Southwestern Univ Med Center.
Philippines	UP Population Institute
Rwanda	Centre Hospitaliere de Kigali.
Rwanda	National University of Rwanda.
Senegal	ASBEF.
Senegal	Le Dantec Hospital.
Senegal	SANFAM.
Senegal	University of Dakar.
Sierra Leone	PPASL.
Sri Lanka	CDS.
Sri Lanka	FPASL.
Sri Lanka	MOPI.
Sri Lanka	SLAVSC.
St. Lucia	FPA St Lucia.
Sudan	Khartoum North Hospital.
Sudan	Port Sudan Civil Hospital.
Sudan	SFCA.
Sudan	Sudan Community Based Health.
Tanzania	7th Day Advent Church Health.
Tanzania	FP Assoc of Tanzania (UMATI)
Thailand	Chiang Mai University.
Thailand	Chulalongkorn University.
Thailand	Khon Kaen University Hospital.
Thailand	PDA.
Thailand	Population + Community Develop.
Thailand	Siriraj Hospital.
Thailand	TAVS.
Thailand	TDRI.
Thailand	Thai Fertility Research Assoc.
Thailand	Thai Red Cross Society.
Togo	University of Benin.
Tunisia	ONFP.
Turkey	Found for Adv & Recoc of Turk.
Turkey	Hacettepe U/Institute of Pop.
Turkey	Human Research Develop Found.
Turkey	Institute of Child Health.
Turkey	Karendiz University.
Turkey	Lioness Clubs.
Turkey	TFHPF.
Turkey	Turkiye Esnaf Ve Sanatkarla Ko.
Uganda	Bosoga MSRDP.
Uganda	Diocese of East Ankole.
Uganda	FPAU.
Uganda	Institute of State Applied Eco.
Uganda	University of Ibadan.
Uruguay	Soc Ginecotocologica—Uruguay.
Venezuela	Maternidad Conception Palacios.
Yemen, Republic of.	YFCA.
Zaire	IMCK.
Zaire	PSND.
Zambia	Adventist Devel & Relief Ag.
Zambia	Center African Family Studies.
Zambia	University Teaching Hospital.
Zimbabwe	University of Zimbabwe.
Zimbabwe	ZNFPC.
Chile	APROFA
Jamaica	JFPA.
Panama	APLAFA.
Trinidad and Tobago.	FPATT.
Uruguay	AUPFIRH.
Venezuela	PLAFAM.

Source: Agency for International Development.

Significantly, Mr. Chairman, the United States remains the leading donor of population aid in the world. We provide about 45 percent of all international family planning assistance in more than 100 countries. As a matter of fact, 85 of those countries are developing countries, and it is a very significant number indeed.

So, Mr. Chairman, I would suggest that the United States in no way has abrogated its leadership in family planning. Since 1981 the United States has obligated $2.6 billion for these programs around the globe.

Mr. Chairman, I believe that Americans can be very proud of the fact that where the U.S. Government provides substantial amounts of funds to family planning initiatives worldwide, we draw a very real line with regard to abortion, and we do it in a way that protects, to the greatest extent possible, the vulnerable unborn children of the world. It is precisely because children, Mr. Chairman, like their mothers, are absolutely precious and deserving of respect and our compassion that our Government says no to funding of abortion either directly or indirectly and seeks to provide financing to family planning programs that are less likely to prove injurious to the unborn child.

It should be clear, Mr. Chairman, as to why the Bush administration, and the Reagan administration before them, have insisted that abortion not be construed as a method of family planning. The reality is that abortion procedures destroy helpless infants by ripping them apart or poisoning them in salt water.

Mr. Chairman, in one common method of abortion known as vacuum aspiration, a loop shaped knife attached to a high powered suction machine rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and they're disposed of. The power of the vacuum is said to be about 30 times that of a household vacuum cleaner, and in a D&C and D&E abortion, the child is dismembered, literally dismembered, by a surgeon's scalpel without even the benefit of anesthesia. In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn baby, has his or her life purposely snuffed out by an overdose of injected salt water.

These are the realities of abortion. This is the child abuse that abortion represents. This is horrific reality, Mr. Chairman, and the horrific reality is that the result is dead babies. In each and every case abortion stops a beating heart.

I am sad, Mr. Chairman, that there are family planning organizations who refuse to divest themselves of their abortion performance and abortion promoting components. That is unfortunate, but for those that do divest themselves or perhaps are not involved in the first place, there has been, and there will continue to be, ample family planning moneys provided in this bill through ESF funds, through the population account so that there is no diminution of family planning assistance worldwide.

Finally, let me say to my colleagues that, if either this amendment passes or the other amendment which just prevailed remains in the bill, this legislation is coming back vetoed. The President has made very clear in a letter, as well as through vetoes and the exercise of the veto pen in previous years that reversals of the Mexico City policy are wrong. He will not abide by them, and I do believe we will be seeing this issue again.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I believe that women should not be treated as second-class citizens and should be entitled to get the information.

Mr. Chairman, I urge my colleagues to vote for the Berman-Myers-Snowe-Atkins amendment overturning the international gag rule, also referred to as the Mexico City policy. This policy prohibits U.S. funding from being channeled through nongovernmental organizations that use their own funds for abortion services, counseling, or referrals. Foreign governments are exempt from this prohibition.

Approximately 65 developing countries eligible for U.S. AID support allow abortion under some circumstances. However, under this policy, indigenous family planning programs in these countries can only accept desperately needed U.S. funding if they disregard local law with regard to abortion. This gag rule has made it very difficult for family planning clinic workers who are forced to lie to the women who seek their assistance. The women who go to these clinics then lose their confidence in the programs and do not return.

The committee language simply allows nongovernmental family planning programs in developing countries to follow their own laws, using their own funds, while also being able to accept urgently needed U.S. family planning assistance. This provision does not change existing prohibitions against abortion; it does not allow U.S. funds to be used to provide information about abortion or to promote abortion.

Family planning can only be effective if women are provided with complete and accurate information regarding the options available to them. I urge my colleagues to vote for the Berman-Myers-Snowe-Atkins amendment

to overturn this unethical and discriminatory policy.

Mr. BERMAN. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Maine [Ms. SNOWE], the ranking member of the International Operations Subcommittee.

Ms. SNOWE. Mr. Chairman, I thank the gentleman from California [Mr. BERMAN] for yielding.

Mr. Chairman, members of the committee, I rise in strong support of the amendment that has been offered by the gentleman from California which supports the language in the House foreign affairs legislation to reverse the Mexico City policy. I oppose the amendment that has been offered by the gentleman from New Jersey [Mr. SMITH]. What the gentleman from New Jersey wants us to support is nothing more than an international gag rule. It prohibits Federal funds going to any international nongovernmental organization that with its own funds provides abortion referral services.

Let me emphasize, my colleagues, that we are not talking about the use of American funds. We are talking about restricting access to medical information to women in developing countries by nongovernmental organizations using their own funds. U.S. money, in fact, does not go for abortion. It has not gone for abortion. It has never gone for abortion. Since the adoption of the Helms amendment to the Foreign Assistance Act in 1973, the United States has been prohibited from spending one dime on abortion, and, to ensure that the Helms agreement was understood, the Administrator of AID in 1974 issued a detailed policy statement listing the prohibitions under the Helms language.

Mr. Chairman, on a number of occasions I have asked the administration and the Agency for International Development to provide me with evidence of any violations of these restrictions, if any family planning recipients have promoted abortion with American funds. I have yet to get an answer. I have been met with silence. In fact, 2 years ago, when we had a hearing on this issue, I asked the Administrator for AID to please submit examples of violations of this policy, and we have never heard about any violations of policies. So, if there have been no violations of the Helms amendment of 1973, why in 1984 does the administration adopt further restriction on family planning services? And why does the gentleman from New Jersey [Mr. SMITH] seek to perpetuate them?

We are setting a double standard; make no mistake about it. Under this policy we treat the private organizations in other countries differently from the governments in those countries. We trust foreign governments to separate their abortion-related activities from U.S.-supported family planning activities, but not nongovernmental associations. That is a double standard; make no mistake about it. This international gag rule is effectively curtailing family planning assistance, not only to developing countries, but to the organizations most likely to provide high quality services and doing the best job.

□ 1400

In fact, the policy has only added to the confusion of the AID cooperating agencies. In the 1990 internal evaluation of compliance with the policy, AID found,

> Project management have reacted to the Mexico City policy requirements by approaching the abortion question with an overcautiousness that extends to activities clearly permitted under the policy. This overcautiousness is based on a fear that any association with abortion-related activities, however indirect, could place a program's funding in jeopardy.

How has that overcautiousness affected women in the developing countries? First, the AID report states in fact it may be having an impact on long-term health issues for women.

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I want to take what little time I have to congratulate the gentleman from New Jersey [Mr. SMITH]. I know of no one I admire more than I admire him. He has got a conscience. He believes in things. He votes his beliefs, and it is more than refreshing, it is reassuring, to serve in this body with CHRIS SMITH.

Second, I am very saddened today because we are blurring the line of distinction between abortion, which is the killing of a life once it has begun, with family planning, which is the prevention of conception, the prevention of bringing that new life into the world.

As we ignore that distinction between the two, we become accessories to abortions all over the globe. The Mexico City policy has funded family planning in the amount of millions and millions of dollars, and every nickel of it is used for family planning. Why we have to subsidize organizations that perform abortions or actively promote abortions to manifest our concern and our successful support of family planning around the globe, I do not know. But I think we have gotten used to the word abortion. It no longer sends a chill up anybody's spine.

I am waiting until the medical profession starts handing out shingles that say, "Eye, Ear, Nose, Throat, and Abortions." I am waiting to have the doctor's business cards say "Abortionist." At least there is one profession that still abhors the consequences of that title.

But what we are doing here today, if indeed we pass the Berman-Myers-Snowe—whoever else is for it—amendment, we are going to coerce taxpayers' money, people whose conscience stops short of supporting abortion, we are going to see taxpayers' funds go to organizations that perform abortions and that promote abortions.

Mr. Chairman, you can talk about sequestering or fencing in money. Money is fungible, and that bookkeeping gimmick, and that is what it is, ought not to deceive anybody.

But if you wish to stand on the side of organizations that promote, actively promote, not passively promote, or perform abortions, you have that choice today.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Wisconsin, who will run for the Senate one day, and I hope soon.

Mr. MOODY. Mr. Chairman, I appreciate the courtesy of the gentleman in yielding. I take it the main point of the gentleman from Illinois [Mr. HYDE] is that money is fungible. That seems to be an important point, which I think deserves real debate. If that is true, since we have only state enterprises in China, I assume the gentleman would be joining us to stop all trade with China, because that will improve the public coffers.

Mr. HYDE. Mr. Chairman, reclaiming my time, I intend to support sanctions against China. I do not agree with my administration on that, and I thank the gentleman from Wisconsin [Mr. MOODY] for letting me demonstrate my streak of independence.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. ATKINS], who has been a leader in this effort.

Mr. ATKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Berman amendment. This amendment is not about abortion. No U.S. funds can be used to perform abortion abroad. Rather, this amendment is about ending the hypocrisy in the U.S. policy.

Under the Smith amendment, and under current policy, we treat foreign governments different from the way we treat foreign private voluntary organizations. We allow foreign governments to pursue whatever their sovereign policies are on the issue of choice. But if it is a private voluntary organization, we have a gag rule. We say you must renounce anything you might do with private funds, anything you might do separately from U.S. funds.

Mr. Chairman, gag rules do not work. Gag rules are crazy. We have a protection to assure that no taxpayer moneys are used for abortion. This is about removing the gag rule on private voluntary organizations.

Mr. Chairman, this amendment will allow us to make more effective use of our international funds. One year ago we had a debate on a program in Roma-

nia. The gentleman from New Jersey [Mr. SMITH] at that time insisted that AID was ready, that he wanted a family planning program in Romania, and that he had four organizations that were ready right at that time to proceed immediately, that would follow the Mexico City gag rule, and proceed immediately to provide services.

What happened? Not one of those organizations has provided a single bit of family planning services in Romania. There is still no program in Romania, thanks to the crazy gag rule in this policy.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I read with interest Prof. Lawrence Tribe's book, "Abortion, the Clash of Absolutes."

Now, Lawrence Tribe is an old fan of the conservative side of the aisle, even though he had testified with some vigor against Justice Robert Bork's Supreme Court nomination. I would hope Mr. Tribe is well thought of by liberals as a philosopher and legal scholar.

In his book on abortion, he says that it appears we are not getting any closer to a resolution.

Mr. Chairman, I am sorry if these words seem harsh to some Members, but I believe an abortion cult, a real cult, has developed in America, where it has become for some people, the focus of everything they do in their life, to defend the right to kill children in the womb.

How does it spill over into something that has such a gentle ring to it, family planning? It spills over because that cult thinks abortion is the best backup family planning method of all.

Mr. Chairman, there are not many people elected to public office that I know of, except for a few bizarre people here and there, who will admit that. But many unelected political activists, including Ted Turner, who controls what I think is the most outstanding network in America, put as the principal basis of their environmental concern, a concern we should all be involved with, the practice of family planning, including the use of abortions.

Because funds for family planning mixed domestically by Planned Parenthood, it is not even a coverup any more. You have the abortion clinic in the back, you are getting Federal money, and you mix it all together with true family counseling.

In my own Orange County, no abortions are performed by Planned Parenthood, but they refer women to San Bernardino County, where they have the same office structure and the same public relations people.

That is what they do on the world scene with the U.N. fund for family planning activities. Because they are not elected to office but draw high U.N. salaries by appointment, they will tell you to your face that China has to do what it has to do. They have to have this forced abortion policy. We disagree. It is coercive. These people protest that it is not genocide in Tibet, it is just family planning of another type, and the world will get around to agreeing with China eventually.

So we go through this dance in this legislature of elected people, and we say, oh, I think the genocide in Tibet is a civil rights violation. I think it is terrible, forced abortion, in the seventh, eighth, and ninth months in China. But we are going to let them do it anyway. None of our money we send to them is really going to be directed toward people who do that sort of thing.

But in Mexico, we got it clear. The gentleman from New Jersey [Mr. SMITH] reaffirms Mexico. The Berman amendment guts the Mexico policy.

Mr. Chairman, the President will veto it. Everything is irrelevant today if this provision stays in.

□ 1410

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of the Berman-Myers-Snowe-Atkins amendment to the Smith amendment which seeks to reimpose the Mexico City policy which has been eliminated in H.R. 2508 and to reaffirm my strong support for comprehensive family planning. And I want to take this opportunity to commend the sponsors of two measure and particularly the gentlewoman from Kansas for her dedication and diligent work on this important issue.

Each year, 1 million women die throughout the world as a result of pregnancy related complications or childbirth. Ninety-nine percent of these women live in developing countries where the risk of dying from pregnancy related causes is 50 to 100 times greater than in the industrialized nations.

Family planning can prevent between one-quarter and one-third of all maternal deaths. With the ability to prevent unnecessary deaths in the developing world through family planning, and allowing individuals to exercise their right to control their own fertility, countless lives can be saved.

The vital issue before us is the importance of allowing U.S. aid to family planning organizations so that women can exercise their right to control their own lives thereby saving countless lives.

Today, the world environment has become one of the vital issues of our time. Population planning assistance is an inseparable part of the solution. Accordingly, I rise in strong support of the amendment and urge my colleagues to support it as well.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to my friend, the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I would like to oppose the Berman amendment and support the Smith reaffirmation of the Mexico City policy, and the Berman amendment guts that.

I think that we should recognize that the gentleman from New Jersey [Mr. SMITH] has spent a great deal of time working on this, and he believes with a great passion, and there are many of us who support his feelings. The implementation of the Mexico City policy has not reduced U.S. funding of international family planning programs whatsoever. Every penny that has been withheld from UPPF has been reprogrammed to other organizations or directly to foreign governments for family planning purposes.

A recently published report by the Population Crisis Committee reportedly referred to a column by the Washington Post columnist Hobart Rowen, who last week in it gave special praise to AID's program in Bangladesh and said, "AID has committed over $300 million to Bangladesh population activities since 1979." And "AID's support has clearly been a critical contributing factor to overall program success." Despite this acknowledgment by the PCC, Mr. Rowen incredibly claimed that the Mexico City policy was responsible for the recent tragedy in Bangladesh. Such demagogic claims are clearly ludicrous when one takes the time to examine the facts.

The Planned Parenthood Federation of America is so ideologically committed to abortion that it has refused to accept U.S. funds under a contraception-only policy. Planned Parenthood Federation of America President Fay Wattleton told the National Press Club that "Our Government must increase its funding to make contraception and safe, legal abortion available in developing nations."

To accept funds under the Mexico City policy would violate PPFA's principle that reproductive rights are indivisible. The U.N. world population plan of action, to the contrary, makes it very clear that abortion and contraception are very different and quite divisible.

Again, Members should be aware that the Planned Parenthood Federation is the largest provider of abortion in the United States, performing more than 100,000 abortions per year in their own facilities.

Mr. Chairman, we are destroying the future of our country and of our world by what we are doing, accepting these amendments. I oppose them very strenuously.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, we are debating the Mexico City policy of the Reagan and Bush administrations. What the Mexico City policy says is this: The United States cannot give any family planning assistance to international organizations, such as the International Planned Parenthood Federation, which tells women about the option of abortion. This is the international version of the Supreme Court's gag rule. This is madness, Mr. Chairman.

If there is a clinic in Bangladesh or India or Ethiopia and a poor Indian or Ethiopian or Bangladeshi woman enters that clinic and unless she terminates her pregnancy she will die, the doctor cannot tell her that. And if he does, that clinic will lose all U.S. money. That is what this is all about.

The American people are not for this. The Supreme Court is for it, but the American people are not for it. This gives Members a chance today to send a signal to the country, to the President, to the High Court that we believe that no Supreme Court should pass a law interfering with the relationship between a doctor and her patient.

Let the President veto the bill. I hope he does. Let this be the election in 1992. Let the American people know that the President of the United States does not want to provide funds to clinics which provide advice to women on whether or not they can have an abortion. Let that be the issue in 1992 because that is what this vote is all about.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it seems to me to be indefensible to advance abortion as a method of family planning. That is what we are talking about. The various polling organizations from Gallup, Richard Wirthlin's organization, and others have found that an overwhelming number of Americans, in excess of 85 percent, do not believe that abortion ought to be performed or promoted as a method of family planning. That is the issue that is before us.

The Mexico City clause provides for three exceptions: the life of the mother, rape, and incest. That is contained within the language of the contract clauses that have been signed by approximately 400 foreign nongovernmental organizations.

I believe, Mr. Chairman, that the amendment that is before the committee, which seeks to reverse the Mexico City policy, ultimately, if it were to be enacted and overridden, which I doubt it will be overridden, will be construed or seen some day as being an extremely antichild amendment.

The reason for that is this: These organizations which get into country X-Y-Z which has very strict or restrictive abortion laws, without the kind of conditionality that the Mexico City policy includes, are then free to get into these countries and to begin agitating for abortion on demand at any time during pregnancy. They can do that without U.S. subsidization, but we provide that additional leverage.

As a matter of fact, it was AID that pointed out, back in 1985, in one of their fact sheets to Members of Congress as to why they differentiate between providing moneys to a sovereign government as long as the money is segregated and providing money to a foreign nongovernmental organization, providing they divest themselves from abortion as a method of family planning.

They wrote:

> Abortion is a controversial issue in many countries, especially those with large Catholic or Muslim populations. The U.S. has been criticized in developing countries for its funding of groups—such as IPPF, the International Planned Parent Federation of London and its affiliates—which perform abortions in these countries. The administration believes that it is important to avoid the damage to U.S. interests which result from the belief that it supports abortion. Where abortion services are provided by an organization of which the U.S. is a major contributor, it is unrealistic not to expect that the U.S. be identified with its activities.
>
> However, where U.S. support is rendered to a government program, there is little damage to the U.S. reputation since the issue is one of domestic politics.

What we have before the committee, the Berman amendment, is a reversal of that policy. It does recognize and suggest that abortion ought to be allowed as a method of family planning.

□ 1420

That is what is before the membership.

The underlying amendment, my language, says abortion should not be promoted as a method of family planning.

Mr. Chairman, I remind my colleagues, again, that every dollar that has been appropriated since 1984 when this policy went into effect has been given out, has been provided, to those NGO's, those governments that do not, indeed, provide abortion as a method of family planning.

So I urge Members to vote no on the Berman amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman from New Jersey [Mr. Smith] consistently purports to speak for women and their children, and it is his right to think that he can do this. But I say he does not have the standing to speak for women and their children, nor does he have the moral authority to do so.

The gentleman from New Jersey [Mr. SMITH] wishes to gag professional providers of health care from even mentioning the legal option of abortion to a woman keeping a woman ignorant of her rights and her legal choices.

I ask you, my friends, is that showing trust, respect, or caring for women, whether it is in this country or all over the world? I say that it is showing disdain, mistrust, and flat-out contempt, contempt for these women that the gentleman from New Jersey [Mr. SMITH] purports to speak for, and it is the same contempt that it shows to the professional community who would be forced to withhold life-saving information from a woman. Vote for Berman-Meyers-Snowe-Atkins.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong support of the Berman-Snowe-Meyers-Atkins amendment to overturn the Mexico City gag-rule policy.

Mr. Chairman, here is another bankrupt policy that does nothing to prevent abortion, which is not a legitimate brith control method, but does a great deal to undermine voluntary family planning efforts worldwide. It is not as if the organizations the Smith amendment aims at are spending U.S. taxpayer dollars for abortion. U.S. law has always prohibited that. But the Mexico City policy, promulgated at the U.N. conference in 1984, cuts off United States family planning assistance to those organizations who use their own funds—funds from private sources—to even tell a woman she has the option of choosing an abortion.

I believe that abortion is a completely private matter—a matter for individual decision, not Government—and that Government should not encourage it, by funding or otherwise, nor discourage it, but leave this highly personal matter to personal choice without Government interference of any type.

But to obviate demand for abortion we need vigorously to support and promote voluntarily family planning—contraception, so that unwanted pregnancies are minimized. Prior to 1984 international organizations offering voluntary family planning services worldwide were receiving U.S. support and funds. Now those funds are cut off in a misguided effort to prevent abortion, but the only effect is to deny to the neediest women in poor countries across the world American funds for family planning. It is a bankrupt policy, Mr. Chairman, one that merely serves to push people, denied legitimate contraceptive means and services, toward the very practice it seeks to avoid, abortion.

Mr. Chairman, the strongest means of preventing abortion from becoming

a birth control method is family planning. Our support for family planning should be massive and worldwide, and America should resume its rightful bipartisan position maintained for 25 years under administrations of both parties of leadership.

I wage support of the Berman-Snowe-Myers-Atkins amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Again, as with the previous debate and the vote which everyone in this Chamber recently voted on, we have been dealing so far in this segmment of the argument more with symbols than with substance.

The Mexico City policy, with or without the Smith amendment, does not support abortion, nor does its removal as the mark of the committee would do permit abortion, nor would any United States funds pay for abortion worldwide or anywhere else. That is not what is at stake despite the continuous arguments from the other side that make it sound that way.

What we really are questioning here with the Mexico City policy is whether or not private organizations that are in the business of family planning, having nothing to do with abortion in the family planning, are allowed to receive United States funds for nonabortion-related family planning services, contraception, et cetera, if with their own funds they discuss abortion. This is exactly the gag rule question which has just been decided. If you would like the gag rule for American organizations, then perhaps you should vote for Smith. If you do not think the gag rule makes sense, and I do not, because it, in effect, requires doctors to practice political medicine, to violate the Hippocratic Oath which they have sworn, to give their patients all the options, but there is one option now that they may not discuss even if it is in the patient's medical interests, they you should, if you feel as I do, you should not vote for the Smith amendment.

But one point should be remembered by all as they go down to the well to vote. The amendment offered by the gentleman from New Jersey [Mr. SMITH] would apply a double standard. The amendment offered by the gentleman from New Jersey [Mr. SMITH] would say that what we do for government organizations overseas in Bangladesh, China, or India is one thing, because we do not apply the Mexico City policy to them under Smith, but only to private organizations, and for a group which says that private organizations are the answer to human needs, I ask why would we want to disadvantage a good many private organizations in order to help governments. We should apply the same standard to both organizations, which the Smith amendment does not do.

Support the Atkins amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume just to remark that the reason why we provide those governments with family planning dollars is because those governments have a monopoly.

There are not, in my knowledge, any countries that have two standing governments, but there are a number of NGO's who are eligible, who could provide the professional family-planning services, who we feel ought not to be promoting abortion as a method of family planning.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I am going to call for a vote on this, and I assume it will rather closely mirror the last vote, but I guess that my desire is to see where people stand. I think some Members on the other side would agree, let us get Members on the record and make this an exciting election next year.

I do believe that perceptions and symbols are important. What people are saying, if they try to change the Mexico City charter, is that abortion is a part of family planning. I repeat what I said earlier in the well, I do not know of an elected official who has the courage of conscience or conviction to say what a lot of people in the abortion cult across this country are saying, that there is nothing wrong with abortion as backup family planning, particularly if your country has 1,250,000,000 people in it, which is the last semiaccurate count on China.

The Mexico City policy will be supported by the President. It makes everything we do on this foreign bill irrelevant.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Berman-Meyers-Snowe-Atkins amendment. I proudly go on the record in support of this.

Mr. Chairman, I rise in strong support of the Berman-Meyers-Snowe-Atkins amendment and welcome this opportunity to be "on the record" in opposition to the Mexico City policy which I view as the international equivalent of an unenlightened gag policy.

It concerns me, as it should concern us all, that the United States appears to be moving in exactly the opposite direction of that which is to be desired if we are to responsibly address one of the most serious problems facing the world today, that of overpopulation.

To be blunt about it, withholding vital information on family planning services is just plain wrong.

Try as opponents of this amendment might, there is no way one can legitimately claim that this is a proabortion amendment. It is not. What it is is a profamily planning amendment and because it is I proudly identify with it and urge all of my colleagues to lend their support.

We are privileged, as Members of this body, to have available the counsel of some of the wisest people in the world as we proceed with our deliberations.

I recall recently having a breakfast meeting with Jacques Cousteau and I still vividly recall the impact of what he had to say. Among other things, Captain Cousteau opined that the most serious environmental global issue today is that of overpopulation and he reported he is commiting the rest of his life to addressing that most serious challenge.

The world's population is growing at an unprecedented rate. By 2025, it is expected to rise between eight and ten billion. Overpopulation is one of the greatest causes of worldwide environmental degradation, dwindling natural resources, urban poverty, migration, and malnutrition.

Annually, 1 million women die of complications resulting from a pregnancy. Millions more children die of starvation. Tens of millions more unwanted pregnancies occur. Doesn't it make sense, for so many valid reasons, for the United States of America to encourage family planning programs. The answer is clearly yes. We must reverse the ill-advised Mexico City policy and we must not tolerate the cutting off of funds for the International Planned Parenthood Federation.

I close as I began, urging support for the Berman-Meyers-Snowe-Atkins amendment. Vote yes for family planning.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, one of the most important forms of aid we provide to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

The committee's version of the bill reverses a repugnant policy which has been in place since 1985. Let us not mince words about what the international gag rule does. It says that in order to receive U.S. funds, private international family planning organizations must withhold the truth about the medical options available to women. They must conceal information about the option of abortion from pregnant women even in cases where health problems might endanger a woman's life and even if non-U.S. funds are used to provide this information.

No matter what its proponents say, this gag rule has not led to a reduction in the incidence of abortion in developing countries. Instead, it has increased the risk involved in this procedure. In fact, by cutting funding available to family planning organizations that is used to help women avoid unintended pregnancies, more abortions may very well result. The organizations that serve developing countries need and deserve our help not more obstacles. I urge my colleagues to consider the facts: Worldwide at least one woman dies from pregnancy, childbirth, or induced abortion every 60 seconds; and

pregnancy-related complications including non-medical abortions are the leading cause of death for teens ages 15–19.

Let us face the facts. Around the world women are dying from a lack of family planning.

Those who would gag doctors and nurses also contend that abortion is being promoted as a method of family planning. This is simply untrue. None of the international family planning organizations promotes abortion. Instead, these organizations are there to offer women the choices, education, and opportunities to make their own private decisions about the size of their families.

It is time to stop the misinformation campaign being promoted by this administration and antichoice extremists. As the leader of the free world, the U.S. cannot continue to advance censored and unethical medical advice.

Let us be clear. The language currently included in the foreign aid bill makes no changes in the existing prohibitions against abortion. It does not allow U.S. funding of abortions or abortion information. It merely allows private family planning programs in the world's poorest countries to use their own funds as they see fit, and still accept desperately needed U.S. support for family planning services.

Some of us hoped that the Supreme Court would reject this ill-conceived policy, but that did not happen. Earlier this month, the Court let stand the international gag rule when it refused to hear a case challenging the Mexico City policy.

Congress must stand up where the Court has not. We must reverse this ban on free speech and remove these infringements on the right to choose. Women's health is in jeopardy. I urge my colleagues to join us in protecting access to a full range of family planning services for women and their families regardless of their economic condition or nationality. I urge you to protect the committee language and defeat this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds, the remainder of my time.

Mr. Chairman, no matter how many times they say it, it is not the case. The amendment is very clear. Under this amendment, if it passes, the Helms law remains on the books. No funds may be available to any foreign nongovernmental organization which uses or if such funds were made available would use funds provided by the U.S. Government to perform or actively promote abortion as a method of family planning. All we are saying is apply the same standards for their own money we apply for the foreign governments.

For the people who are willing to go to fight for the sovereignty of other countries, for the people who are willing to have United States troops stationed in Iraq to protect the Kurds, notwithstanding arguments of sovereignty, do not make a phony distinction between foreign governments and nongovernmental organizations.

I urge an "aye" vote on the amendment.

□ 1430

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from California [Mr. BERMAN] to the amendment, as amended, offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DORNAN OF California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 200, not voting 9, as follows:

[Roll No. 149]

AYES—222

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Atkins
AuCoin
Bacchus
Beilenson
Berman
Boehlert
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hoagland
Hobson
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Nagle
Neal (NC)
Nichols
Oakar
Olin
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Pickett
Pickle
Porter
Price
Pursell
Rangel
Ravenel
Reed
Richardson
Ridge
Rose
Rowland
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Zimmer

NOES—200

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonior
Borski
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Fields
Gallegly
Gaydos
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hochbrueckner
Holloway
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kolter
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Murtha
Myers
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Perkins
Peterson (MN)
Petri
Poshard
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Anthony
Aspin
Davis
Hopkins
Lloyd
Martin
Rostenkowski
Roukema
Yates

□ 1451

The Clerk announced the following pair:

On this vote:

Mrs. Roukema for, with Mr. Davis against.

Messrs. McCANDLESS, DOOLITTLE, ZELIFF, and RIGGS changed their vote from "aye" to "no."

So the amendment to the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 62, line 11, strike out "spend" and all that follows through the end of line 25 and insert in lieu thereof the following:

agree to use its best efforts to encourage importers, whenever feasible, to purchase United States grain and other agricultural products and to employ United States-flag vessels.

Page 63, strike out line 7 and all that follows through line 19 on page 64 and insert in lieu thereof the following:

"(d) EXEMPTION.—This section shall not apply to any country that receives cash transfer assistance under this chapter of less than $25,000,000 for a fiscal year.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I rise to thank all of the individuals who are involved in this very important amendment for agreeing to a time limitation.

I therefore ask unanimous consent that all debate on this amendment and amendments thereto conclude in 40 minutes, 20 minutes to be controlled by the gentleman from Michigan [Mr. BROOMFIELD] and 20 minutes by myself.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this amendment would require aid recipients to make the best effort to buy American and ship American. It would restore the Israeli eligibility for cash transfer assistance and give other countries the opportunity to comply by following the same rules followed by Israel with respect to ESF funds. It would prevent a reduction in U.S. exports caused by the Torricelli language. And this is crucial to dairy products, wood, manmade fibers, woven fabrics, fertilizers, coal, iron, steel, auto, auto parts, tires, tobacco, and many other manufactured goods.

The Torricelli language now found in section 1303 hurts our Economic Support Fund Security Assistance Program. It restricts America's ability to respond to rapidly changing events in the world. It imposes cargo preference laws on cash transfers at the expense of other important U.S. industries on small businesses. It imposes bureaucratic redtape on private commercial transactions; it reduces U.S. exports and adversely affects cash transfer recipient countries which are strategic allies, including Israel and Egypt, or countries that are extremely poor countries.

It is important to note, particularly for the benefit of our foreign assistance opponents who want all appropriations to stay at home, that section 1303 does not require the cash transfer be spent in the United States on U.S. goods; only that U.S. ships are guaranteed additional foreign assistance dollars. In fact, section 1303's end effect will be to reduce our sale of goods abroad and, therefore, reduce the net amount of U.S. exports generated by the Foreign Assistance Program.

Israel, a vital strategic ally of the United States, is not exempt despite the fact that section (d)(2), which has been carried over in virtually identical form from Torricelli amendments the previous years, is intended to exclude them and in fact once excluded them.

Other important ESF recipient countries, including Pakistan, the Philippines, Portugal, Turkey, El Salvador, Honduras, Nicaragua, Bolivia, Colombia, and Peru are also affected and the limitations with respect to ESF funds would affect them because they receive over $25 million in ESF funds per year.

All of these are affected by ESF, by section 1303. And if you take those countries, you will find that all of those countries already import a great amount from the United States, far more than we import from them and they import far more from the United States than they receive in ESF. In fact, the favorable balance of trade for us related to their ESF receipts is about 14 or 15 to 1.

For those and many, many other reasons, I think it is important that my colleagues here on the floor understand the depth of the problems created by the Torricelli language. It greatly expands the coverage of cargo preference. Therefore, I urge my colleagues to support the amendment that I am offering for myself, for the distinguished gentleman from Wisconsin [Mr. OBEY] and the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Section 1303 says that before a country can receive an ESF cash transfer from us, they must enter into an agreement requiring them to spend an amount equal to the amount of the cash transfer, that is not necessarily the actual cash transfer dollars on U.S. goods and services. Further, they must agree to ship 50 percent of those goods on American ships which are not competitive; they are almost twice as expensive as foreign ships.

In addition, the President would be required to somehow manage all these transactions and make sure that the prices of the goods were fair, that is price fixing, that the points of sale were equitably distributed throughout the United States, and that the ports of departure for the ships carrying the goods sold are also equitably distributed throughout the United States. Similarly, the GAO would have to get access to sovereign foreign governments' records to audit this unworkable system.

The only ESF cash transfer-recipient countries exempted from all these requirements are those who will receive less than $25 million. They are exempted in recognition of the fact that section 1303 imposes a burden on them, and most of them are so poor and underprivileged—per capita income rates a fraction of our own, high infant mortality rates, low education rates, skyrocketing population growth rates—that they were spared that burden.

There are so many problems posed by section 1303 that it is necessary to look at them one at a time.

IT HURTS THE ESF PROGRAM

It applies to and hurts the Economic Support Fund [ESF] Program, which is now called Economic Support Assistance in the bill. Section 1301 of the bill on page 61 describes why we give this assistance and why it is so important:

Under special economic, political, or security conditions, the National Interest of the United States may require economic support for countries in amounts that could not be justified under section 1201 on development assistance. In such cases the President is authorized to furnish assistance to countries and organizations in order to promote economic and political stability.

ESF is supposed to be a flexible assistance tool for promoting economic and political stability in developing countries in which the United States has especially strong security and foreign policy interests. ESF cash transfers can be used to provide immediate balance of payments support to key countries or provide grants to finance general imports rather than specific projects. The economic support fund is also often used to finance infrastructure and other capital projects—using U.S. components—necessary for long-term economic development and to support smaller projects that more directly address the basic human needs of the poor. In addition, under one part of the existing ESF program, known as the Commodity Imports Program [CIP], the funds for the ESF-recipient country are released by the United States only for specific purchases of U.S. goods and services.

But the CIP is only one small part of ESF because ESF is not and should not be designed for the singular purpose of promoting U.S. exports; rather, it is designed to be used for multiple purposes, all of which further U.S.

foreign policy and national security interests, which include, but are much broader than, economic.

Countries forced to direct large percentages of their domestic expenditures to security concerns often lack the resources to support vital economic development programs. Balance of payments supports—cash transfers—can have a powerful effect on the welfare of the poor. Imports of raw materials, manufacturing and agricultural inputs, and other essential goods-again, often from the United States can help sustain the level of economic activity and growth, and the political stability on which much employment throughout these economies depends.

The bulk of ESF is used to support the Middle East peace process. Israel has used cash transfers from ESF to address inflation and balance of payments problems. They have also used cash transfers to repay debt owed to the United States and to purchase goods from the United States. Egypt has benefited from cash transfers which have encouraged long-term development activities while also permitting the large scale import programs necessary to maintain growth rates and to allow the Egyptian people to experience tangible benefits from the peace process.

The following countries are expected to receive ESF cash transfers in fiscal year 1992 but are exempt under subsection (d)(1) of section 1303 because they will receive less than $25 million: Cote D'Ivoire, Djibouti, Thailand, "South Pacific Regional," Jordan, Costa Rica, Dominican Republic, Guyana, Jamaica, Haiti, Caribbean Regional, and Guatemala.

Cash transfers under ESF must be quick disbursing in order to be effective foreign policy tools. They finance balance of payments and economic stabilization programs, frequently in a multidonor context, allowing us a rapid response to the needs of recipient countries in financial difficulties, for example, newly emerging democracies such as Nicaragua. Unlike ESF commodity import programs and project assistance that transfer hard currency—United States dollars—resources only as the activity is implemented, cash transfers can provide fast disbursing financial assistance to countries in need of immediate balance of payment support to cushion the transition to a democratic government.

In those cases where the cash transfer recipient country does not have funds of its own with which it could purchase U.S. goods as required by section 1303, it would have to use the actual cash transfer to do so. This means not only that the cash transfer would not be available for its intended, valuable uses, for example, for use as balance of payments—but also that the fast disbursing nature of the program is lost—it is transformed into a commodity import program—because the funds would not be provided to the recipient country until the U.S. goods had been purchased by them and shipped to them.

Adding another purpose to the ESF Program reduces its flexibility and detracts from the many valuable foreign policy purposes it already serves, purposes which are equally in the national interest of the United States.

All cash transfers, by law, are deposited into a separate account. We know where they go and how they are used. Proponents of section 1303 often argue to the contrary, implying that section 1303 has the added benefit of somehow assuring more accountability in the ESF Program.

IT HURTS PRIVATE COMMERCIAL TRADE

Contrary to what one might suppose, the recipient government itself does not necessarily use the cash transfer for purchases or other uses on its own account. Usually, the recipient government, through the central bank, sells those dollars to private sector businesses in the country—in exchange for the country's local currency—who in turn use them to buy goods and services needed in the country's economy. These goods and services are frequently purchased from the U.S. private sector, and the United States otherwise indirectly benefits as these allied trading partners improve their own economies with the cash transfers, making them better buyers for our goods overall. Similarly, if the cash transfer is being used to restructure their multilateral debt in order that they may receive future World Bank or IMF support, their economies are thus improved, and they become better markets for U.S. goods and services, that is the United States still benefits.

Section 1303 necessarily applies to private commercial transactions because, as noted above, it is the private sector in the aid-recipient country that usually uses the cash transfer dollar to buy goods from the U.S. private sector. Private commercial transactions are covered by section 1303 additionally because the statutory language clearly and unequivocally requires "a country"—not the narrower "a government"—to spend an amount "equal to the amount of the cash transfer"—that is, not necessarily the cash transfer dollar itself—to purchase U.S. products, which usually come from the U.S. private sector.

Section 1303 would still be highly objectionable to the administration—cargo preference, by the way, is singled out in the statement of administration position suggesting a veto of the bill—if it were amended to apply only to purchases made from the United States by the recipient government itself. This is because the government would have only two choices—both of them bad. It could either use the actual cash transfer to buy U.S. goods instead of for its intended, equally valuable purpose—for example, Panama's cash transfers and other donors' aid is used for debt restructuring vital to their economy and reemerging democracy—or, since governments usually don't need to buy much on their own account, it could develop a more government-centralized economy and usurp the private sector's role—and the hard currency in the country—as the buyer and seller of any number of inputs needed for economic production. For example, all fertilizer would be bought—and resold and controlled—by the government.

Section 1303 does not require the actual cash transfer dollars to be spent in the United States. It specifically states—page 62, line 13—"Nothing in this section, however, shall prevent a country from purchasing, with the United States cash transfer assistance, goods or services produced in that country." As noted above, even if it did so require, it would still be highly objectionable as a restriction of cash transfer utility and an inducement toward establishment of inefficient, parastatal economies abroad.

IT HURTS U.S. EXPORTS

Another problem with section 1303 is that it will not otherwise increase U.S. exports to cash transfer-recipient countries. As noted in the administration position paper opposing section 1303, each one of the affected countries already buys far more in U.S. goods and services than it receives from us in cash transfers. The only exception, Nicaragua, is an abberation because trade with that country was suspended in recent years. Thus, section 1303 does not right some egregious wrong that is being done to the United States by those to whom we give cash transfers. They are already excellent trading partners, not to mention strategic allies.

In fact, we will have fewer exports if section 1303 is enacted. This is true because 50 percent of any goods purchased from the United States by the recipient country's government or in its private sector commercial transactions must be shipped on American vessels. This is the so-called cargo preference requirement that is in section 1303, albeit obscurely since the words "cargo preference" never appear. The words—p. 62, line 19—"United States Goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States." trigger cargo preference.

It costs almost twice as much to transport goods on these American ships, so more of the cash transfer or, as the case may be, the country's own money is used up to pay the costs of shipping the goods instead of buying more of the goods themselves.

Every dollar that has to be spent on the higher shipping costs is a dollar less that is spent on the U.S. commodity itself.

CARGO PREFERENCE HURTS MANY DIFFERENT PRODUCTS

Section 1303 is bad for business, bad for labor, and bad for the U.S. balance of trade.

The effect of the cargo preference requirement is to reduce, not increase, the amount of U.S. goods that must be purchased by the government or the private sector of the country that receives cash transfers from the United States.

Here is how it works; we are requiring a country to buy U.S. goods and services in an amount equal to the amount of the cash transfer, but in the same breath we are telling them they must spend part of that finite sum on the more expensive American ships to transport the goods they buy from us.

They would have more of that money to spend on U.S. goods if they could transport those goods on cheaper, non-U.S. ships. In 1990, AID paid an average of $59.69 per ton to ship on U.S.-flag vessels and only $30.43 per ton for non-U.S. ships. Thus, the U.S. ships are more expensive; there's much less money for buying the goods.

That there are many different commodities which could be sold abroad in lesser quantities due to the cargo preference requirement in section 1303. This is not an agriculture versus maritime issue as so often seems to be the case in House floor debate on this issue.

The following is a list of commodities that are eligible to be purchased and shipped, and that have at one time or another been pur-

chased and shipped, under the foreign assistance program by AID. These are products which are made in the United States, by American labor and American business, that are also eligible for purchase with the cash transfers covered by section 1303, but which lose sales volume for each dollar of the cash transfer that must be paid for U.S.-flag transportation: dairy products, wood poles, manmade fibers, woven fabrics, fertilizers, coal, iron and steel, boilers, nonelectric motors, and engines, elevators, winches, cranes, and related machinery, rail locomotives and related stock, motor vehicles, ships, boats, and other floating structures, tires, and tobacco and tobacco products.

In addition, here are some examples of U.S. goods that AID actually shipped in calendar year 1990: newsprint from New York, synthetic resins from West Virginia and California, auto parts from Michigan, textile machinery from North Carolina, hand tools from Nebraska, West Virginia coal from corporate headquarters in Oklahoma and Connecticut, steel billets from Illinois, and air-conditioning machinery from Ohio.

The very voluminous AID procurement of goods and services from U.S. suppliers computer printout is available in this Member's office. The printout shows, by city and State, the companies from whom U.S. goods and services were purchased with foreign assistance funds, including Economic Support Funds [ESF], and were shipped abroad for use in our foreign aid program. The vast majority went on ships.

As an example of the breadth of firms which sell goods and services financed under ESF foreign aid, consider just this partial list of such firms in the congressional district of the gentleman from New Jersey [Mr. TORRICELLI]: East Rutherford, National Audio Visual Center; Englewood Cliffs, Chick Master Incubator Co.; Fair Lawn, Duro Test Corp.; Fair Lawn, Oxford University Press; Hackensack, Ecogen, Inc.; Lyndhurst, The Afro American Purchasing Center; Maywood, Myron Manufacturing Co.; Norwood, American Overseas Book Co.; and Saddle Brook, Equipment Spare Parts. These are companies that produce goods or provide services that AID purchases for its foreign aid program. Every dollar subsidizing the U.S. shipping industry under cargo preference is a dollar less than can be spent purchasing goods from companies such as these.

Members who think that more expensive U.S. cargo preference costs hurt only agriculture commodity sales will be surprised at the wide variety of other American commodities and services that are already being purchased with development assistance and ESF, and which would be eligible for purchase with ESF cash transfers covered by section 1303.

This listing of American companies is a revelation in two ways; it shows how the foreign assistance program benefits our own economy generally, and it also shows in stark detail just how many different companies—from virtually every State in the Union—could be affected by section 1303's expansion of cargo preference requirements.

The commodities referred to above are also typical of the American products which these countries buy with their own money. But under section 1303, these commercial sales would become subject to cargo preference—so the U.S. sales volume would be lost because of the much higher amount that is charged for U.S. flag transportation.

Again, too, the foreign countries that receive ESF for cash transfers from us already buy far more goods and services from us than the amount of the cash transfer they receive.

AID-financed cargoes in 1990 cost an average $59.60 per ton on U.S.-flag ships, almost double the $30.43 per ton on foreign-flag ships. On some commodities, the disparity is even greater. For example, AID-funded corn shipments were charged an average $39.61 per ton for U.S.-flag carriage compared with $17.76 per ton for foreign-flag carriage.

Thus, the U.S. merchant marine already gets a substantial benefit from the foreign assistance program; AID complies with the cargo preference laws that already apply to foreign assistance. Section 1303 constitutes an expansion of cargo preference in foreign aid because it applies cargo preference, for the first time, to ESF cash transfers.

IT HURTS POOR RECIPIENTS

Many ESF cash transfer recipient countries are extremely poor and underprivileged by any standards. They can least afford to pay, as they did in 1990, higher U.S.-flag shipping rates for corn and soy—their nutrition. [AID-financed soy cost an average $59.04 per ton on U.S. ships versus $31.42 per ton on foreign flag vessels.]

The United States has a per capita GNP of roughly $20,000 and a population growth rate of 1 percent [World Bank, "World Development Report 1990"]. The comparison to some of the countries covered by sec. 1303—who must divert many of their dollars from commodities to the higher U.S. merchant marine shipping costs—is startling:

ANNUAL PERCENTAGE

	GNP	Population increase	Infant mortality per 1,000
United States	$19,840	0.8	10
Pakistan	350	3.1	107
Bolivia	570	2.7	108
Philippines	630	1.9	44
Egypt	660	2.3	83

These examples provide some idea of just how unable these countries are to support the added burden of cargo preference on the scarce resources we provide, or on their own scarce resources.

If section 1303 would remain intact, Congress surely should build upon the humanitarian concerns expressed by the author of section 1303 when he exempted certain poorer, less-developed countries from its provisions.

Specifically, Congress could exempt child survival and basic education priority countries, that is, those that have especially high infant mortality rates or low primary-school completion rates. This gentleman has printed such an amendment in the RECORD and will offer it if the Obey amendment, or a similar one is not adopted.

H.R. 2508 already sets standards in section 1101(g) to designate "child survival priority countries," in which the President is directed to establish child survival programs, and "basic education priority countries," in which he must establish basic education programs.

This proposed legislation defines "basic education priority countries" as those where AID has an ongoing development assistance program and in which fewer than 80 percent of primary school-age children in the country complete primary education. The child survival standard is an aid-recipient country with an infant mortality rate of greater than 70 per 1,000 live births. These statistics are collected by AID, the World Bank, and other development professionals.

Any country suffering from either of these deplorable conditions deserves to be exempted on the same logic that created the exemption for countries receiving less than $25 million in ESF [subsection (d)(1)]. To compare a "child survival priority country" with the United States, note that the U.S. infant mortality rate is only 10 per 1,000 live births, according to the 1990 World Bank development report. So the countries that would be helped by applying the standards of section 1101(g) of the bill to section 1303 of the bill are at least seven times worse off than we are, with their 70/1,000 (at least) rate. In the United States, according to World Bank Unesco data, the primary school completion rate is 99 percent, versus the less than 80 percent standard for a "basic education priority country" under section 1101(g).

If under section 1101(g) these categories of countries need special programs from the foreign assistance program, it makes no sense to simultaneously say that they are strong enough economically to pay more of the money they receive from us for cargo preference instead of being able to use all of those funds to buy the agricultural and other commodities they need. These are poor countries.

The countries exempted under the basic education exclusion are El Salvador, Honduras, Bolivia and Pakistan. AID estimates ESF cash transfer levels for fiscal year 1992 of $90 million for Salvador, $43 million for Honduras, and $26 million for Pakistan. The amount for Bolivia is an as yet undetermined portion of the $199 million Andean Narcotics Initiative cash transfer. Under child survival Egypt, Bolivia, and Pakistan would be exempted. Egypt is expected to receive a $185 million cash transfer in fiscal year 1992.

If these countries were exempted, the following countries would still be covered by section 1303: Philippines ($83 million), Turkey ($75 million), Nicaragua ($125 million), Portugal ($40 million), and Colombia and Peru—a portion of the $199 million Andean Narcotics Initiative, to be determined upon certification of narcotics control compliance.

IT CREATES AN UNWORKABLE, ILL-ADVISED, BUREAUCRATIC MONSTROSITY

Whether one supports cargo preference or not, all agree that the Congress owes a duty to the American people to promote free market principles and minimize Government's interference in the private sector.

The requirements of section 1303 are that the President of the United States engage in something that looks a lot like centralized management of the economy and price-fixing.

Specifically, in its present form, section 1303 mandates that the President ensure

where in the United States goods are purchased from, where in the United States they are shipped from, and finally, what constitutes fair prices for those goods.

The relevant language in the bill is as follows:

The President shall ensure that purchases of United States goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods which are available in the United States at fair prices for such goods.

This leaves the United States heading backward on free-market economics, ironically at a time in history when the rest of the world is starting to embrace it more than ever before.

Constituents who work for a living in the private sector don't want the Government to set the price and value of their goods or their labor; they don't want Government to say that a buyer can buy from someone in this State but not someone else in another State, or that an east coast price is not fair, but a west coast price is.

Even if it was sound economics to do this kind of thing, it is not at all clear how it could be done. It looks impossible. When the President is forced to make sure that American sellers are distributed equitably, what does that mean? Can he pick those States that voted for him in the last election and ignore those that did not? Are States the unit of measurement that are envisioned, or is equitable distribution of sales to be measured by congressional district, or urban area, or rural area, and so on?

With respect to determining fair prices, there are similar unanswered questions. For example, can the President say, your labor costs of production are too high or too low, therefore the cost of your product is unfair compared to someone else's? How, exactly, does the President avoid price fixing? If the law gives him the power to say what a fair—instead of letting willing buyers and sellers in the free market decide—once he says it, the price is effectively fixed for these transactions.

The Great Lakes do not benefit from the unworkable language in section 1303 that purports to require equitable distribution of ports of departure for the goods in question. The simple fact is that U.S.-flag vessels do not visit upper Great Lakes ports. The distributed equitably language from this bill cannot change that fact; that situation is governed by other, unrelated factors. In other words, any threat posed to Great Lakes ports comes from the application of the cargo preference requirement itself because foreign-flag vessels, which do visit Great Lakes ports, would have less business at those ports as U.S.-flags take an extra 50-percent portion of the overall ocean transportation market. Thus, the current distributed equitably provision is both unworkable and undesirable, given the consensus in favor of free markets and private commercial transactions.

IT LIMITS PRESIDENTIAL WAIVER AUTHORITY

Section 1303 should reinstate an improvement that the gentleman from New Jersey [Mr. TORRICELLI] accepted on the House floor on November 19, 1987, regarding the President's waiver authority, that is, to allow him to use the waiver more flexibly.

The bill in its present form may—it is unclear—allow a waiver only for one country at a time, a process that does not take into account how fast world events change sometimes. It should be clarified so the President would not be bound so narrowly. Instead, as current foreign policy necessities dictated, the President could waive provisions of section 1303 for a group of countries, or a group of commodities, or with respect to a certain provision in 1303 for certain countries only, or invoke a blanket waiver, and so on.

This is much less cumbersome bureaucratically, given that it is a major undertaking to get a Presidential determination through the executive branch system; it serves the national interest to minimize bureaucracy. By the way, the national interest remains the standard the President would have to apply in making his decision. The bill should be unchanged in that respect; but the words "with respect to a country" should be deleted so as to clearly give the President a meaningful amount of flexibility.

AID would not get to decide if there will be a waiver; USDA would not get to decide; the President would. There would be no one-sided perspective allowed to exercise the waiver authority; the Presidential authority to decide remains the same as in the underlying bill, except for the deletion of the five words.

This should not be controversial. Again, the House has adopted it this way, and it was accepted by the gentleman from New Jersey [Mr. TORRICELLI] this way. See the CONGRESSIONAL RECORD, November 19, 1987, p. H10580.

The President must still report the waiver to Congress, which preserves the appropriate oversight role of Congress. The President should have some leeway when he determines and reports that it is in the national interest to use the waiver.

IT DOES NOT EXEMPT ISRAEL

If it was the intent of the gentleman from New Jersey [Mr. TORRICELLI] to exempt Israel from the application of section 1303, the gentleman, according to AID, was unsuccessful. Israel is not exempt from the purview of section 1303.

Subsection (d)(2) may have been intended to exempt Israel, and Israel only, but it does not do so because Israel does not have an agreement with the United States under which Israel agrees to carry 50 percent of all bulk shipments of United States grain on privately owned United States-flag commercial vessels to the extent they are available at fair rates, and to purchase U.S. grain at levels comparable to prior years.

Currently, Israel has agreed with AID that it will use its best efforts to encourage its private sector importers—the Government of Israel no longer purchases grain on its own account—whenever feasible, to purchase U.S. grain and other agricultural products and, whenever feasible, to ship those products on U.S.-flag vessels.

The most recent agreement between Israel and the United States is a document of public record. When it is compared with subsection (d)(2), it is clear that Israel is not exempt from section 1303.

The administration supports an amendment to section 1303 that would apply the same standard—that is, the current Israel side letter agreement—to all cash transfer-recipient countries including—but not limited to—Israel.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon, [Mr. AUCOIN].

Mr. AuCOIN. Mr. Chairman, the pending amendment strikes the Torricelli provision in the bill, and I rise in opposition to the amendment. I want to explain to my colleagues what the Torricelli provisions does. It simply insures that foreign recipients of U.S. cash, cash aid, purchase American goods, American products, American agricultural products, and transfer a portion of these commodities and goods on American-flag vessels.

□ 1500

Presently the recipients of U.S. cash aid are not required to buy and ship American, but are free to spend all of their U.S. cash aid on foreign goods, foreign services, foreign agricultural commodities. The United States has no control over the use of its cash aid, nor is there any tangible evidence of American aid in the recipient nation. The Torricelli provision, which is struck by this amendment and should not be struck, makes a commonsense point that I think Members can agree with, that U.S. cash aid abroad provided by American's taxpayers should be used to purchase American products, should be used to purchase American commodities and services and not to subsidize foreign jobs with American foreign aid.

So, Mr. Chairman, I rise in strong opposition to the amendment that strikes the well-considered Torricelli provision, and I urge my colleagues to strike this provision.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Michigan [Mr. BROOMFIELD] for yielding the time. And I say to my colleagues, I wish you'd listen to this because during the 1980's this Congress built peace through strength and put up one of the strongest national defenses this country ever had. But, when it comes to national defense, a chain is only as strong as its weakest link. Our weakest link is the capability of our merchant marine to support our military operations, especially the new rapid deployment system that we have seen in the Persian Gulf.

Mr. Chairman, what has happened is an absolute disgrace. Thirty years ago the United States of America had 4,000 merchant marine ships ready to go to war if they were needed, and we had a trade surplus in the billions. Surplus. Today we have less than 400 merchant marine ships, and we have trade deficits in the billions.

By contrast, the People's Republic of China 30 years ago only had six merchant ships. Today they have 1,200 and refuse, refuse, to bring their goods here on American-flag ships. They have to use their own ships.

Let me tell my colleagues what happened in the Persian Gulf in case some of them do not know. We had only 41 merchant marine American-flag ships on the ready to carry our troops and supplies overseas to the Persian Gulf. Do my colleagues know that we had to depend on 91 merchant marine ships with foreign flags and foreign crews? And do my colleagues know that crews on 10 of those ships refused to take our troops in there? Talk about readiness.

Mr. Chairman, we need to build a merchant marine fleet in this country. And I say, "Never mind whether you're on the side of labor, or management, or free trade, or fair trade, or whatever it is. You vote for national security here today, and you vote against the Bereuter amendment because that amendment will do more to destroy the remaining merchant marine ships that we do have."

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would ask the House to support the amendment of the gentleman from Nebraska [Mr. BEREUTER] which is being offered on behalf of myself, and the gentleman from Minnesota [Mr. OBERSTAR] as well. The amendment is very simple. It simply exempts from the provision of the amendment of the gentleman from New Jersey [Mr. TORRICELLI] any country which has an agreement to use its best efforts to buy American and ship American.

Mr. Chairman, the amendment is supported by the administration, it is supported by AIPAC, it is supported by the Farm Bureau, the Great Lakes Ports Association, the U.S. Chamber of Commerce, and 27 other economic groups interested in exporting.

Now why do they all support this amendment? They support it, first of all, because the amendment of the gentleman from New Jersey [Mr. TORRICELLI] discriminates against the heartland. It discriminates against Great Lakes ports. The problem with the Torricelli amendment is that U.S. bottoms are simply too large to get through the St. Lawrence Seaway, and, therefore, there is no U.S.-flag service on the Great Lakes to speak of, and that means that, if we adopt the Torricelli amendment, we are diverting a very large percentage of shipments from Great Lakes ports to other ports.

That, Mr. Chairman, simply is unfair, and I say to my colleagues, "If you do that, you are incurring an obligation to spend somewhere between $300 million and $400 million to modernize the seaway locks so that we can in fact get U.S. bottoms through the seaway."

Second, recipient countries already meet the standards of the amendment of the gentleman from New Jersey [Mr. TORRICELLI]. They receive only $800 million in aid, but they receive $13 billion, if we are looking at non-Israel recipients. That means that they return in sales of American products, they return to us, 16 times as much as they get.

Third, the problem with the amendment of the gentleman from New Jersey [Mr. TORRICELLI] is that it impacts other commercial sales. The effect of the Torricelli amendment may be to ship more on American bottoms, but we will be shipping less American goods overall because, if we raise the cost of these products because of shipping costs, they are going to be able to buy fewer American products, and that is going to hurt paper, it is going to hurt steel, it is going to hurt textiles, it is going to hurt fibers, it is going to hurt grain, it is going to hurt dairy, it is going to hurt autos. It would be economically stupid to adopt the Torricelli amendment if we want to promote buy America.

Mr. Chairman, I say to my colleagues, "If you want to promote buy America, you should vote for the Bereuter amendment."

Last, what we are doing in this amendment is to assure that countries like Israel may continue to participate in the program, and it will assure that all other countries can participate if they adopt the same kind of side letters which Israel presently has with the United States.

So, in short a vote for the Bereuter, Obey, Oberstar amendment is a vote to require aid recipients to make their best effort to buy and ship on American bottoms; secondly, it would restore Israel's eligibility for cash transfer assistance and give other countries the opportunity to comply following the same rules followed by Israel; and, third, it would prevent a reduction in United States exports which will otherwise be caused by the Torricelli language, which is crucial to the commodities that I just mentioned.

What we are saying in effect by this amendment is by all means aid recipients should be required to buy and ship American to the greatest extent possible, but we are not going to apply that in a way which will snap back and actually reduce American imports by reducing our ability to export auto, steel, coal, grain, dairy, just name it.

I say to my colleagues, "If you don't adopt this amendment, you're not only hurting those industries, you're hurting the taxpayer as well. There's no reason to do that. I urge you to vote for the amendment."

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I rise in support of the efforts of my colleague from Nebraska, to oppose the expansion of cargo preference provisions in H.R. 2508. Although the cargo preference requirement that 50 percent of Government-sponsored cargos be transported on U.S.-flagged ships may seem like a reasonable proposal, once one learns that U.S. taxpayers, through the U.S. Department of Agriculture, are forced to pay two to four times as much for U.S.-flagged ships as foreign-flagged vessels, one begins to understand how damaging such a provision can be.

This policy has the effect of putting the cost of supporting the merchant marine on the backs of those who can least afford it—the poor developing countries of the world, and the American farmer.

Mr. Chairman, this is an issue of fairness. Congress may believe that our merchant marine needs and deserves our support. But, that support should not come directly out of the pockets of farmers, who comprise less than 2 percent of the U.S. population, or the world's poor and starving people. Neither group should be drowned by this Congress, to single-handedly keep our ships afloat.

In 1990, U.S.-flagged ships charged almost $30 more per ton on the average than did foreign vessels, for a total $21.6 million loss. This $21 million came out of the mouths of the world's poor, and the pockets of the American farmer, to provide smooth sailing for the merchant marine.

Some try to cast cargo preference provisions as pro-American. But in reality, they're anti-farmer, take-it-from-the-poor provisions.

The U.S. has traditionally had a very positive trading balance with the countries that would be affected by this provision, and extending cargo preference to commercial agricultural exports, would be a hurricane assault on U.S. agriculture—decreasing our levels of foreign commodity sales to fill the sails of U.S. shipowners. We should not disadvantage the sector of our economy that contributes so much toward reducing our trade deficit, by unfairly making them pay higher transportation costs.

I urge my colleagues to support the efforts of Mr. BEREUTER. We should not force farmers, and the world's poor, to walk the plank in support of the merchant marine.

Mr. GRANDY. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I rise today in support of my colleagues amendment to preserve current cargo preference laws. Section 1303 of the Foreign Assistance Authorization Act requires countries receiving ESF (Economic Support Funds) cash transfers from the United States to ship goods under U.S. cargo preference laws. This provision would actually work contrary to its intent. It would reduce U.S. exports, especially agricultural products, which negatively affect the American farmer, including those in my home State of Iowa.

If suppliers are forced to ship their products on U.S. vessels which, on average, cost nearly $30 more per ton than foreign ships, the net effect will be a decrease in the level of exports

to compensate for the funds needed to pay higher transport costs.

The U.S. Department of Agriculture has paid enormous subsidies to ship our grain on U.S.-flag vessels since the inception of cargo preference. There is no doubt that cargo preference hampers the competitiveness of our agricultural exports. We are struggling to reduce the cost of our commodities on the world market, yet we're boosting the cost by requiring them to be shipped on vessels which are often more expensive.

Agriculture is one of America's most internationally competitive industries. Extending cargo preference to commercial agricultural exports is a mistake which would have a tremendously negative impact on the U.S. agricultural industry. Agricultural products positively contribute to reducing our current trade deficit. Expanding cargo preference would eliminate billions of dollars in agricultural exports, and devastate the American farmer.

Furthermore, the economic support fund is designed to be a flexible policy to enhance economic and political stability in developing countries where the United States has a strong interest. The availability of ESF cash transfers to these countries is integral to improving their citizens' quality of life. By allowing the recipient country to use these funds to restructure their multilateral debt, purchase goods and services which enrich living conditions, and invest in capital projects to improve their infrastructure this objective can be achieved. In addition, these goods and services are often purchased from the United States which in turn improves our own economy.

Any changes in current cargo preference laws would adversely effect the competitiveness of U.S. agricultural exports. Our farmers work hard for their income. Let's not make it more difficult by inflicting unwise trade policies on them.

Mr. GRANDY. Mr. Chairman, I am sure it comes as no surprise to this body that I, too, rise in support of the Bereuter-Obey amendment, and I do so because we are once again in this ugly fight that pits about 13,000 American seamen and 4 U.S. shipping companies against 2 million American farmers and hungry children in poor neighborhoods, and there are no real winners here. But let me just kind of review the betting.

Mr. Chairman, it should be noticed that in the last farm bill which this Congress passed last year we cut farm subsidies by 25 percent. We are also, as we debate this bill, determining whether about half of the counties in the United States, agriculturally dependent, will apply for some kind of disaster assistance and receive it. So, we can conceive right now of farm income that is going south on a steady basis.

□ 1510

This amendment, if it does not pass today, will oblige us to take more income from farmers and transfer it through agriculture subsidies to maritime subsidies. Everything that the gentleman from New York [Mr. SOLOMON] has said about the American merchant marine is true. But if that is true, Mr. Chairman, then does that really argue for cargo preference? That is an idea that has not worked. Indirect subsidies do not work. Direct subsidies in agriculture, which have been cut in half since 1985, only work because they have provided us with export markets which we are still trying to hang on to. Cargo preference works against that. It works against farmers, it works against taxpayers.

Mr. Chairman, I urge Members to vote for the Bereuter amendment.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I start from the very basic premise: our great country provides lots and lots of foreign aid to many, many countries, and it seems to me that we do it because in America we realize that we have an interest in what goes on in the world. But it would seem to me that it is absolutely basic to say that if we are going to send foreign aid to other countries, that some of it ought to be returned to us.

Mr. Chairman, I rise to oppose the amendment, because I think to say that 50 percent of the aid has to be purchased with American products on American ships, that is not too much really to ask. The cash transfer provisions contained in the foreign assistance authorization bill were negotiated, with a lot of deliberation in the Committee on Foreign Affairs. It stipulates that any country receiving cash transfers from the United States must purchase an equal amount of goods and services from the United States.

Mr. Chairman, that is not asking too much. That ought not be changed. It is time that we started thinking about what is good for America.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY]. S0634

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Michigan for yielding.

Mr. Chairman, I never can understand why we can always support the argiculture industry, but never the American merchant marine. It is the same old story, year-in and year-out, from those in the farming community: We can sell more if we do not use American flagships.

Well, if you want to give more grain to the foreign sources, then let them buy from foreign sources. Then we do not have to worry about how it is going to move or who is going to benefit from it.

Mr. Chairman, the reason that we are hurting in this country is that we have been too generous with our foreign aid, and we have not tied strings to it, like every other country has when they give foreign aid. Let us let Americans benefit when taxpayer dollars are used. Americans are the ones who should profit from it, not everybody else in the world.

Mr. Chairman, one other thing on using American flagships. This helps to balance out our trade deficit. When you use foreign flagships, again you get more in the red.

Somehow, when we, the Federal Government, give money to the States, we tie all kinds of strings to it. We tell them how they should spend it, what they should do, and the speed limit they can go. Why can we not and why should we not apply the same rules to those nations to whom we are giving away funds to help them? Let them buy and use American, all the way.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, as much as I have high regard for my good friend, the gentleman from Nebraska [Mr. BEREUTER], I rise in the strongest possible opposition to his amendment. I find it incomprehensible that the United States, the most generous nation on this planet, cannot get some benefit from the foreign aid it gives.

Mr. Chairman, I find it incomprehensible that somehow it has become obscene to help our own merchant marine. I believe it is mind-boggling that while every nation which participates in a foreign assistance program ties that aid in a complex variety of ways to purchases of its own goods and own products and own services, we somehow find it inappropriate to benefit American manufacturers and the agriculture industry and services, and, yes, shipping, with our foreign aid dollars.

Mr. Chairman, it seems to me that the very least we can do as we provide governments with foreign aid, after assuring that it is in our own national interest, is that we insist that some of that aid be spent, so that American working men and working women continue to have jobs, and, yes, that includes the shipping industry.

Mr. Chairman, my feeling is that in extreme situations, where we are dealing with a human crisis like the earthquake in Armenia, the plight of the Kurds, or the tragedy in Bangladesh, it is not reasonable to tie our aid to anything. But the aid we are dealing with is ordinary aid, ordinary economic assistance. This should be tied to purchases in the United States, and I do want our merchant marine to benefit from it.

Mr. Chairman, I strongly urge a "no" vote on the Bereuter amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in support of the Bereuter amendment.

The proponents of the cargo preference measure would have you believe

that this is an issue of whether or not recipients of U.S. aid buy American products. That is not the issue.

Recipients of aid already purchase 13 times more in American goods and services than they get in cash transfers. The only issue we are dealing with today is whether or not we are going to raise the price of American products to these recipient countries. Make no mistake, section 1303 raises the cost of shipping all American manufactured goods, not just agriculture. Steel, iron, machinery, chemicals, many industrial products, and of course, coal—all will be hit hard by this provision.

The cargo preference provision is unfair because it creates the impression that the nations who receive U.S. cash transfers will purchase more U.S. products. In fact, just the opposite is true. Total exports to these countries will decrease because in paying for the higher cost of U.S. shipping, the cash transfer countries will have less money to purchase U.S. goods. It is just that simple.

For our Nation's coal producers, this provision is simply disastrous. Inevitably, expanded cargo preference requirements over time will wipe out millions of dollars in commercial export sales for U.S. coal. In fact, the Commerce Department estimates that if the cargo preference provision is implemented it would more than double the price of shipping coal to these countries. Last year, the nations of Egypt, Portugal, Turkey, Ireland, Pakistan, and the Philippines purchased a total of 4.6 million tons of coal, valued at $203 million. If implemented, the additional cost to the purchasing countries would total $31.7 million—making U.S. coal clearly uncompetitive.

The underlying purpose of section 1303 is not to increase U.S. exports, but to extend cargo preference requirements on commercial cargo. That would be disastrous for agriculture, coal, steel, machinery, iron, and other bulk goods because U.S.-flag ships charge nearly twice the rates charged by foreign flag ships.

I wish to close by saying that our coal producers and our Nation's farmers have worked hard to improve our standing in an incredibly competitive world market.

Section 1303 runs counter to efforts of increasing American exports. It is bad for coal, bad for agriculture, bad for our balance of trade, and bad for the children of the countries that receive our foreign aid in the form of cash transfers.

I urge Members to support the Bereuter amendment.

□ 1520

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. Chairman, I would like to make a few very simple and brief observations during this debate. The question is whether or not Members of this Congress will expect recipients of U.S. taxpayer cash assistance to use that cash for the purpose of purchasing commodities, products, and services from our own country. The alternative is to allow these beneficiaries of American generosity to use our money to buy from our overseas competition.

For the life of me, I cannot understand why we are even having this debate. It would seem such a simple proposition to say to these cash foreign aid recipients that they must use our taxpayer dollars to purchase U.S. goods and services.

The other side of the argument says in effect, "Here Mr. Businessman, your plant in New Jersey makes widgets. We're going to take your tax dollars, give them to a foreign country, and allow that country to buy widgets from Japan." Or, "Here Mr. Farmer, you grow soybeans. We're going to take your tax dollars, give them to a foreign country, and allow that country to buy soybeans from your competitors in Brazil, or rapeseed from the European Community." What sheer lunacy. No wonder the taxpayers of this country are fed up with a system that taxes them to death, and at the same time uses some of those tax dollars to reduce their profits or even drive them out of business.

Finally, Mr. Chairman, I would like to address a few remarks to my friends and colleagues who are interested in agriculture. Many of us have been engaged in a lengthy effort to convince the administration to grant an additional line of credit to the Soviet Union for the purpose of purchasing United States agricultural products. The credits we sought amounted to about $1.5 billion, a sizable amount indeed. But the potential for additional U.S. agricultural sales contained in the legislation before us today dwarfs that amount if we simply require the recipients of cash assistance to buy U.S. products with the money.

In that regard, I believe the principle of fairness and equity demands that sectors of the domestic industry other than agriculture should also benefit from additional sales of American products and commodities. It seems only fair that, if we are going to generate additional sales of farm commodities through our cash assistance, then we should also generate additional business for our hard-pressed merchant marine fleet and the men and women who sail those vessels. Fair is fair.

Some of my closest friends on this floor would argue that by requiring recipients of U.S. cash assistance to use U.S. merchant vessels for transportation we will reduce the amount of goods and commodities they will be able to afford. I would reply—so what? These recipients aren't using most of the money we give them to buy any U.S. products anyway. Any additional sales will be an increase, and I think it is highly selfish and unfair for us to refuse to share some reasonable portion of increased business with other vital sectors of the economy, especially the merchant marine.

Mr. Chairman, I strongly support the notion that we should require cash assistance recipients to buy American, and I also feel strongly that fairness demands a portion of the benefits should flow through to our own domestic transportation industry when those goods are shipped overseas.

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, I rise today in support of the Bereuter amendment encouraging countries which receive cash transfer assistance to buy U.S. products and use U.S. ships to transport them.

Mr. Chairman, this amendment will prevent damage caused by new, mandated cargo preference requirements imposed by Torricelli language in this bill. My State of Wisconsin and other Great Lakes States are painfully aware of the terrible price our economy pays every time a cargo preference requirement is forced upon us. In the past, we have lost millions of dollars and many jobs to preference requirements thrust upon Government food shipments in the Public Law 480, Food for Peace Program. Luckily, we are getting some relief from an agreement reached in the 1990 farm bill.

Now, however we are being threatened again with preference requirements that will choke off Great Lakes and Saint Lawrence Seaway trade without enhancing any exports. Presently, there are few U.S.-flagged vessels that can service the Great Lakes ports of the Midwest. The proposed cargo preference requirements will unfairly force commercial shipments away from America's fourth coast to other ports. This will cost millions of dollars and many jobs ranging from dockworkers to those who work in the agricultural sector in my district. Equally devastating, the proposed increase in cargo preference requirements will scuttle reinvestment by those countries who utilize the cash transfer program and will artificially raise the price of agricultural goods.

To give an example of how much cargo preference hinders trade and the effective transfer of goods I would like to quote a statement made last year by Lynn Thomas, director of the Minnesota field office of CARE, Inc. This statement was made on June 19, at a Port of Duluth press conference when Ms. Thomas was speaking about the Food for Peace Program. CARE is the world's largest nondenominational private organization engaged in helping feed the hungry in other countries. In her statement she said:

> We are strongly concerned about the ability to get our food and other goods to the people who need them in a timely way, and in good condition. Unfortunately, U.S. cargo preference makes the job harder because American flag ships too often are not available or suitable for our cargoes.

I urge my colleagues to vote for this amendment.

Mr. KLUG. Mr. Chairman, I rise in strong support of the amendment. We have got to protect America's fourth coast, the port of the Great Lakes.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in opposition to the Bereuter amendment,

which would essentially gut the so-called Torricelli language in this legislation.

The Torricelli provision will bring a much needed dose of reality to our foreign assistance program. Contrary, I am sure, to what most taxpayers might expect, the United States gives away billions of dollars with no strings attached and not even an accounting on how the money is spent. If my colleagues like our foreign money to continue to be spent in foreign countries, they will support this Bereuter amendment.

On the other hand, the Torricelli provision will ensure that U.S. cash transfer assistance is spent on U.S. goods and U.S. services and that there is an auditing mechanism to ensure that the funds are spent lawfully. It does not forbid cash transfers where diplomacy and security require them.

One important fact, ladies and gentleman, has been overlooked in this debate. And that is that the Torricelli provision does not apply to private commercial transactions. It very specifically provides it applies to government-to-government, noncommercial transactions only.

Now, what else is right about the Torricelli amendment? This language will result in additional U.S. commodity purchases by recipient country governments. It will prevent diversion of U.S. assistance to other countries. The language ensures that U.S. cash transfers are spent on U.S. commodities, U.S. goods and services. U.S. agriculture, manufacturers and services, as well as shipping, will benefit from increased foreign government purchases that are required by the Torricelli provision.

We can no longer afford to give away $3 billion in cash without taking some steps to ensure that as much of that money as possible is spent on U.S. commodities, goods and services.

I urge a no vote on the Bereuter amendment.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, as a world leader, the United States has an important role to play in promoting the democratic and humanitarian goals which help preserve global stability.

Foreign aid plays a dominant part in American efforts to advance these goals.

There is no law, however, that says by supporting global concerns we must neglect our own domestic interests. And, in fact we would be stupid to step on our own feet while helping other nations get ahead.

Mr. Chairman, the Torricelli provision included in this legislation is common sense. It simply states that U.S. cash aid, supported by American taxpayers, should be used to buy American products, commodities, and services and not to subsidize foreign jobs and foreign workers.

Under current law, foreign recipients of cash aid have every opportunity to take us to the cleaners. Foreign nations receiving U.S. aid dollars can in fact cash in on U.S. assistance by spending all of this aid on foreign goods, services, and commodities. Looking out for number one when it comes to foreign aid, should be the basic building block of our foreign policy.

The buy America/cash transfer provision in this bill will provide jobs and boost our economy as well as the foreign economies that receive our aid.

By supporting our own economy, we can keep America strong enough to stay a world leader and an international player able to make a difference.

Under the Torricelli cash transfer provision, everyone wins. I urge you to support this provision and to oppose any attempts to amend or delete it.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. BROOMFIELD], for yielding time to me.

I support this amendment because it removes an unworkable provision and replaces it with a more realistic approach. It allows ports on the Great Lakes to remain competitive for U.S.-assisted exports. And it removes from the bill an entirely inappropriate Government intrusion into private enterprise.

The provision now in the bill not only requires U.S. flag vessels for half of Government-assisted exports, but also for an equal amount of commercial transactions. It has been said earlier in this debate that only government to government transactions are covered by the bill, but that is not so. If my colleagues read the language in this bill, it also applies to an equal value of commercial transactions between assisted countries and American exporters. This would subject $2 billion of exports to Government regulation which would be necessary to implement the committee's language.

If this provision were ever to become law, it would make it more expensive for American exporters to ship their products overseas and therefore make them less competitive in the world markets. Further, American farmers and manufacturers would be harmed by the resulting loss of export opportunities.

And finally, the Great Lakes ports would be effectively eliminated from competing for the shipping related to these exports.

Above all, let us set aside the special interests and regional concerns, and look at the larger issue of competitiveness. This is a key issue we in Congress must address. Any legislative action that would impede American competitiveness must not be adopted, no matter how it benefits any particular special interest group.

The debate has centered around agriculture, but the committee's bill affects more than agriculture. The bill affects all of manufacturing also. And it affects commercial transactions, not only U.S. Government-sponsored exports. Therefore, the provisions at issue here really constitute an impediment to the American economy.

Let us take the shackles off our farmers, our business people, and our Great Lakes ports, and let them compete. That is why adopting this amendment is so important.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nebraska [Mr. BEREUTER]. The United States is the world's largest trader and has an enormous stake in the future of world trade. Last year we saw more than $40 billion in agriculture exports. This accounted for one-fifth of our farmers cash receipts and 1 million jobs in production, processing, packaging and shipping these products around the world.

We have just provided the President with continuation of fast-track negotiating authority—a tool so that trade initiatives can continue to advance the economic objectives of the United States. For the United States, growth in agriculture exports is vitally important and our farmers will gain from reduced barriers to market access.

It is not in the best interest of the United States to restrict exports or to put barriers in the path of our farmers to sell the food and fiber they produce around the world.

One of the provisions of the foreign assistance reauthorization bill does exactly that. The bill expands cargo preference requirements on U.S. commercial exports to countries receiving assistance under the Economic Support Fund. The amendment offered by the gentleman from Nebraska amends this section and keeps U.S. agriculture exports and our farmers in business.

Section 1303 of the Foreign Assistance Reauthorization Act will extend cargo preference on U.S. sales already being made to those countries receiving economic support funds. That section will not increase U.S. exports, since these countries already buy, in U.S. goods, more that 16 times the amount of funds they receive. It is likely that the opposite effect will take place—U.S. exports will decrease so that the increased cost of shipping can be paid.

Countries affected by the amendment, not including Israel, will receive $796 million in economic support funds

in fiscal year 1992. These same countries purchase over $13 billion in U.S. goods in 1990—far more than they received. Application of cargo preference requirements will result in a reduction in the amount of goods they purchase.

Keeping this provision in the bill can result in a reduction of U.S. exports. If these countries are faced with relatively high U.S. vessel shipping costs for agricultural commodities, they are likely to shift their purchases to other goods with lower shipping costs. Additionally, the amount of agricultural commodities purchased from the United States could be reduced because of the higher shipping costs. Agriculture will be harmed by such actions and exports will go down, just at a time when we are trying to increase markets for our farmers.

The American farmer is the envy of all and we all benefit from the productivity and efficiency of our farmers. We cannot afford to take this valuable resource for granted and must provide a climate in which the farmer can prosper and continue to supply both this country and the world with food and fiber. There is no question that the current status of world agriculture trade is unacceptable. Continuing the status quo means that present trade barriers of other countries will go on; that trade as we know it now, unfair and uneven, will not change.

It is my goal to see changes in world trade that will benefit U.S. agriculture. Restricting our farmers' exports, as can happen through the bill before us today, does not serve that goal and, in fact, may have the opposite effect.

I urge my colleagues to support the Bereuter amendment and help U.S. agriculture.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there is nothing wrong with asking the Federal Government, I tell all of my colleagues who always lobby for the merchant marine to support a strong maritime industry and flagship fleet and et cetera. One would think we would have had the merchant marine in the parade here with the Desert Storm troops the way they are talking. But, it is time to stop using cargo preference to build up our merchant fleet. It has not worked. It will not work. We are simply taking money out of the farmers' pockets that are already down to the lint.

I am just asking the folks who want to build and maintain a strong and viable merchant marine fleet, come through the front door. We will help you.

Five years ago, six years ago, the gentleman from Oklahoma [Mr. ENGLISH] and myself had an amendment on cargo preference. We fought that fight. We lost. We said we would join with you.

We asked for a GAO report to ask what is wrong with the merchant marine and our flagship fleet? There are many things wrong.

Ask the Treasury. Come up front. Do not take it out of the farmers' pocket. How many times do we have to go through this?

We get nickeled and dimed every year by you people when you come in here. It is a false argument. Support the Bereuter amendment.

Mr. Chairman, I rise in support of the amendment to prevent yet another expansion of the cargo preference shipping laws. We have been down this road many times since maritime interests first came through the back door during deliberations on the 1985 farm bill with so-called compromise language expanding cargo preference requirements on shipments of U.S. humanitarian assistance program goods.

Most of my colleagues are aware this Nation's farmers and stockmen were not pleased with this expansion. Agriculture learned to live with the new rules because we understood the compromise would limit expansion of cargo preference to certain assistance programs, such as Public Law 480.

However, since that debate we have visited this issue at least once every 2 years as certain maritime interests in Congress continually attempt to expand cargo preference into areas agreed to as off limits in 1985—areas such as commercial agricultural commodity sales.

We in agriculture have no argument with the maritime industry's position that they continue to fight rough sailing on the international shipping seas. Farm country understands tough times.

And there is certainly nothing wrong with asking the Federal Government to help keep an industry's head above water. But it is time to stop using cargo preference to build up our merchant fleet. It has not and will not work. You simply are taking money out of farmers pockets that already are down to the lint.

I'm just asking the folks who want to build and maintain a strong, viable merchant marine fleet to come through the front door. If it is in the best interest of this Nation to maintain a strong merchant fleet—and I believe it is—then maritime should sell a comprehensive, viable program to the taxpayers. Do that and I will work with you.

Agriculture has been accused every time this issue comes up of trying to go back on the 1985 agreement. This is simply not the case. Rather, it is agriculture and other U.S. industries which are constantly having to defend the 1985 cargo preference compromise against further expansion by my colleague from New Jersey [Mr. TORRICELLI].

Section 1303 is another example of this constant fiddling with the cargo preference laws. Mr. Chairman, a considerable amount of the work on the 1990 farm bill time was spent working to increase the program flexibility of producers participating in USDA programs.

Congress agreed with producers that the key to economic success was the ability to quickly respond to changing economic, market and management conditions.

Now we are on the verge of telling foreign countries—many of which depend on our assistance to help them cope with many of these same conditions—that the United States is going to take away the flexibility which allows the Economic Support Fund [ESF] programs to work efficiently. At the same time, this section will raise the cost of American agricultural exports, and it appears aimed at undercutting our foreign aid program in the Middle East and Central America.

The real irony, Mr. Chairman, is that certain elements of the maritime industry refuse to share the cargo preference spoils within their industry. My colleagues from the Great Lakes region tell me it is nearly impossible to get cargo preference shipments originating out of the Great Lakes. They have tried several times to get the coastal maritime interests to share. The answer has been "no."

And, contrary to some reports, section 1303 will not improve the level ESF cash transfer spent in the United States on U.S. goods. It only guarantees that U.S. ships are guaranteed additional foreign assistance dollars.

The countries targeted by section 1303 with the strong message of "Buy American or lose Uncle Sam's help" already buy 15 times more U.S. goods and services than they receive in cash transfers. And most are carrying a trade surplus with the United States. The administration has indicated that the end effect of section 1303 cargo preference requirements will be to lower the net amount of U.S. exports generated by the foreign assistance program.

Mr. Chairman, I know many other U.S. industries are fighting the same tough trade hurdles and economic conditions that have agriculture fighting for survival. We can't afford the negative trade impact of yet another misguided expansion of cargo preference. I urge my colleagues support of amendments to correct the inequities of section 1303.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

□ 1530

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, my colleagues, this is a judgment we have made before. Indeed, it has become an annual rite of spring to consider in the foreign assistance bill what it is we do about our purchases of American products and the use of American ships. Every year, indeed, this same language contained this year in the foreign authorization bill, supported overwhelmingly by the Committee on Foreign Affairs, has won by a wide margin.

I ask that you cast that vote again today, because foreign assistance must be more than delivering a check to foreign governments. This is not about sending money alone to Egypt or Africa or Latin America. It is about the relation of people to people, the fact that we send goods, the works of our factories and our farms, and they see the products we make in America and ap-

preciate them and appreciate us for having given them.

Mr. Chairman, this amendment is simple, that at least half of the amount of money that we are sending to a foreign government must be reflected in the purchase of American products made by American people. I know some of the Members disagree, and some will cast a different vote. But how is it you will go home to your own districts, to your own communities and explain the fact, the reality, that American foreign assistance that is going to Egypt is being used to purchase Cuban sugar or that increasing amounts of American foreign assistance is going to purchase Argentinian and French wheat subsidized by their governments? How is it you will explain that American foreign assistance is being spent for Japanese products from their factories?

It is not a theory. It is a reality. Increasingly, shares of products are being lost, and the American taxpayer is paying for it.

There is a reason why no other nation in the world provides cash assistance to foreign governments without requiring that some of it be spent in their nation, and the reason is that every other nation in the world understands they cannot afford it. The news on this floor today to our Government, the understanding with our taxpayers is that we cannot afford it any longer either.

My friends, we are dealing with a simple reality. Times have changed. $10 billion, $11 billion, $13 billion, $14 billon in cash today is important to this economy. It means jobs. Whether that money goes to French farmers or American farmers matters. We need it back, and we want it back.

I do not dispute that there is a difference today in the level of shipping costs any more than I argue that American wheat or soybeans may be more expensive. The difference today in the shipping on an American flag ship to the Middle East is $25 a ton compared with a European ship of $22 a ton. I concede the point; it is $3. But do we not have a right for that $3 extra to be spent in the United States supporting our own seamen, supporting our won corporations and eventually our own taxpayers?

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. TORRICELLI. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

Does the gentleman understand that at the beginning of the gulf war, Desert Storm and Desert Shield, it was the merchant marine of the United States, those freight haulers, those ships that could carry all of this, that were carrying all of the war materiel out to the Persian Gulf, that were so important to us that the merchant marine has been walking in the parades side by side with all the American Armed Forces who have been celebrated by the American people?

Today we are hearing on the floor of the House that they are good enough to fight for us, but they are not good enough to carry our product to foreign soil. If I ever heard of an anti-American attitude, that is it.

I think the gentleman is doing the right thing in resisting this amendment. We have resisted it before, and I think America ought to understand it is about time that Americans, all, not just the farmers, and let them sell their product, all Americans had a chance at that piece of the pie.

Mr. TORRICELLI. I appreciate the gentleman making the point and, indeed, having made clear where taxpayer's money is going and what the costs may be, and my belief that even foreign aid must be part of an economic strategy today for America.

Let me conclude on that point, that ultimately it is also national security. Here we are, a world power. Some world power. We have gone from 2,000 merchant ships to 371.

In the Persian Gulf crisis when American ships needed to sail to Saudi Arabia, it is a good thing the Liberians agreed with us and the Panamanians and the French, because if they did not, American war materiel never would have left our ports.

We have lost our merchant marine. What happens in the future with American security when they do not agree?

Indeed, for all of the success of Desert Storm, we have learned some of that lesson. Our operations in Desert Storm could not begin until ships that broke down in the Mediterranean were repaired to deliver tanks and helicopters. Ten Greek ships stopped at the entrance of the Persian Gulf. They would not be in harm's way. They refused to deliver American war materiel, because they did not agree with the policy.

What happens next time?

I know some agricultural interests have their concerns, and I know some maritime interests have their concerns. My suburban district has neither of those concerns. We do not grow anything, and we do not have any ports.

But I have got this concern: This cannot go on. A great nation cannot be without maritime power, and a great nation cannot continue to be blind to the fact that it cannot provide cash around the world without at least asking that half of it be spent in the United States.

My colleagues, you have made this vote many times, Democrats and Republicans alike, farm States, industrial States, across the board. You have voted for this provision. I ask you today to support the committee. I ask you to support my provision. Defeat Bereuter. Cast a consistent vote, not for any interest, but for the simple fact that it is time to deal with economic reality. It is time to have a merchant marine again.

I understand my colleagues here today have said they would vote for provisions for the merchant marine. There is not going to be one. This is the only provision. Vote no.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of my time to the gentleman from Nebraska [Mr. BEREUTER], the principal sponsor of this amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of the Bereuter amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the Bereuter amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, let me simply say that to hear the last few speakers you would think that this was an issue which was dividing people on the basis of whether you want to help America or not. That is baloney.

The fact is that the Torricelli amendment has nothing whatsoever to do with helping America. What the Torricelli amendment is about is helping a few American ports at the expense of other American ports, at the expense of the farm industry, at the expense of the auto industry, at the expense of the textile industry, at the expense of every industry that wants to export an American product.

□ 1540

What the Torricelli amendment says is that we are going to try to build a maritime industry at the expense of every other American industry.

Now, that does not make sense. The Torricelli amendment, if it is not amended by this amendment, will double the cost of shipping goods to the recipient countries under this program. That will reduce the amount of goods that can be sent to those countries; that will reduce American sales. It will reduce American ability to export.

It is a pretty dumb way to improve the economic conditions of the United States. So do not be fooled by it.

I would also point out that, contrary to the impression being left by the Torricelli amendment sponsors, the Torricelli amendment, even if it is amended by a future Torricelli amendment, will still exclude Israel from participation in these programs. I do not think we want to do that, either.

Mr. BEREUTER. Mr. Chairman, I thank the distinguished gentleman for the clarification, but it is also important to emphasize that this does not,

the current Torricelli language in the bill, does not exempt Israel. The language I am offering does exempt Israel—and all other countries—from the Torricelli language in the bill.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding. A premise running through the argument of the Torricelli opponents is that the United States gets virtually nothing back in return for our foreign assistance. That simply is not true.

I think it is important on this point to cite the report itself. I realize they are talking about cash assistance, but the report states:

> Virtually all of the security assistance procurement and an estimated 70 percent of the economic assistance procurement resulting from this bill will take place in the United States. Such procurement will contribute significantly to the creation of additional jobs for American workers and to the expansion of American business.

I think it is very important to stress that the foreign assistance we are providing, provides a significant amount of help to American workers without the Torricelli provision.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Indeed, the balance of trade between the United States and ESF countries as related to ESF from the United States and the U.S exports to those ESF-recipient countries is 14 or 15 times in our favor except for the nation of Nicaragua. We have had an embargo with Nicaragua, or it would be no exception.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished gentleman from Minnesota a cosponsor of the amendment I have offered.

Mr. OBERSTAR. I thank the gentleman for yielding. The problem that those Members in the Great Lakes have with the pending so-called Torricelli amendment is that American-flag operators want to have it both ways. They want the production of Buy America, which this essentially is, shipped on American-flagged vessels, cargo preference, and I have been a supporter in the past since I started in my office on the Committee on Merchant Marine and Fisheries on the cargo perference provision, until I found they would not serve the Great Lakes. They want the protection on the one hand of cargo perference, and they want the liberty to serve or not serve those areas of the country which they choose not to serve, which is the Great Lakes, where we generate 45 percent of the agricultural exports of this country. They will not send American-flagged vessels into the Great Lakes. That is a disgrace.

Mr. BEREUTER. Mr. Chairman, I urge support of the Bereuter-Obey-Oberstar amendment.

Ms. PELOSI. Mr. Chairman, I rise today in support of the cash transfer reform provision contained in H.R. 2508, the foreign aid authorization bill and in opposition to any weakening amendments. I commend Chairman TORRICELLI for his work in including this important provision in this bill.

The Torricelli language makes simple common sense. It ensures that foreign recipients of U.S. cash aid purchase American goods and transport some of those goods on American-flag vessels. Right now, foreign recipients of U.S. cash aid are not required to buy and ship American. They can and do spend cash provided by U.S. taxpayers on foreign goods, agricultural products and shipping. Recipients of assistance provided by us may not even know that the taxpayers of the United States paid for the goods they are receiving. Is this right?

Too often, U.S. cash aid is used to purchase goods and services abroad. This assistance subsidizes foreign jobs and industries at the expense of our domestic industries and American workers.

I support our efforts to assist those in need elsewhere. With the Torricelli provision, we can assist those in need here at home at the same time. I urge my colleagues to support the cash transfer reform provision contained in the foreign aid bill and to oppose any weakening amendments.

Mr. NUSSLE. Mr. Chairman, as a freshman Member of this body, I have been questioning all of our Nation's policies and asking the basic questions of "Why do we have this policy?" and "Is this policy the wisest use of the taxpayers' money?" I raise these questions with our existing cargo preference policy.

Why do we have this policy? Some say we have a cargo preference policy to protect our merchant marine because it is such a critical component of our national defenses. The fact is that our shipping industry is not competitive. According to the Agency for International Development—AID—financed cargoes on U.S. ships cost an average of nearly twice that of our foreign competitors. And for some commodities, such as corn, the costs are 120 percent greater using U.S. vessels. And with cargo preference policies intact, there is no incentive for U.S.-based ships to become more competitive.

Others say the cargo preference policy promotes exports. How in the world are our Nation's goods going to be competitive, pricewise, with transportation costs twice that of other nations? More importantly, how are the Iowa grain farmers going to compete globally with transportation costs inflated 120 percent?

Now I turn to the question of, Is cargo preference a wise use of taxpayers' money? The Congressional Budget Office—CBO—reported last fall that $1.05 billion per year is spent by the Federal Government to pay for cargo preference and operating differential subsidies. This figure translates to $241,157.55 per U.S.-flag seafaring job. I might add that some of these seafaring workers make over $141,000 for 6 months work. That hardly seems like a wise use of the taxpayers' money.

Now those questions I just raised pertain only to the existing policy and not to what is being proposed in this legislation. As I understand it, H.R. 2508 greatly expands cargo preference by extending cargo preference on U.S. commercial exports to nations receiving U.S. cash transfer assistance under the economic support fund—ESF. Moreover, it expands cargo preference requirements to cover agricultural exports that were deemed exempt in the 1985 farm bill.

If this policy seems ludicrous as it stands, why expand it? Some claim that it will promote U.S. exports by requiring cash transfer recipients to spend an amount equal to the cash transfer—in other words, their own money, not the cash transfer itself—on U.S. goods and services. The goods which are purchased must then be subjected to the law requiring transport on American ships.

However, the reality is that the cash transfer countries already buy far more in American goods and services than they get in cash transfers, and the United States is already running a large trade surplus with them. Proposed cash transfer aid to the countries affected by the amendment is less than $800 million in fiscal year 1992, while U.S. exports to those same countries totaled $13 billion last year.

Who is hurt by this extension of cargo preference policy? The American farmer is the one who will feel the brunt of this cargo preference expansion because most agricultural exports go by ship and are subjected to cargo preference laws. And this comes at a time when Iowa farmers are experiencing devastating flooding and are having a difficult time even planting their crops.

But farmers are not alone. Any U.S. product exported by sea will be hurt by this legislation including coal, oil, chemicals, machinery, and iron and steel products. Anyone who cares about American farmers, American industry, and American jobs should oppose this extension of cargo preference policy.

I urge my colleagues to join me in support of the Obey amendment to modify the cargo preference lanaguage contained in this bill.

The CHAIRMAN pro tempore. (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 246, not voting 10, as follows:

[Roll No. 150]

AYES—175

Alexander	Armey	Barrett
Allard	Aspin	Barton
Annunzio	Atkins	Beilenson
Anthony	Ballenger	Bereuter
Archer	Barnard	Berman

Boehner
Boucher
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Carr
Chandler
Clement
Coleman (MO)
Combest
Cooper
Costello
Cox (CA)
Cox (IL)
Crane
Dannemeyer
de la Garza
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Eckart
Edwards (OK)
Emerson
English
Espy
Fawell
Frank (MA)
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Glickman
Goodling
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Henry
Hobson
Houghton
Huckaby
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jontz
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
LaRocco
Leach
Lehman (FL)
Lewis (FL)
Lightfoot
Lipinski
Long
Mazzoli
McCandless
McCloskey
McCrery
McEwen
McHugh
Meyers
Michel
Miller (OH)
Montgomery
Moody
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Oxley
Packard
Panetta
Parker
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Pursell
Ramstad
Ray
Regula
Rhodes
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Rowland
Sabo
Sangmeister
Sarpalius
Sensenbrenner
Sharp
Sikorski
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Stallings
Stenholm
Stump
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Upton
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waxman
Weber
Williams
Wolf
Wylie
Young (FL)
Zeliff

NOES—246

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
AuCoin
Bacchus
Baker
Bateman
Bennett
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Coughlin
Coyne
Cramer
Cunningham
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Gingrich
Gonzalez
Gordon
Goss
Gray
Green
Guarini
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Hughes
Hunter
Hutto
James
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
McCollum
McDermott
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Patterson
Payne (NJ)
Pelosi
Perkins
Pickett
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Ritter
Roe
Ros-Lehtinen
Rose
Roybal
Russo
Sanders
Santorum
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Walsh
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yatron
Young (AK)
Zimmer

NOT VOTING—10

Davis
Ford (TN)
Hopkins
Martin
McCurdy
McDade
Rostenkowski
Roukema
Smith (IA)
Yates

□ 1607

Mrs. SCHROEDER, Mrs. MINK, and Messrs. BILBRAY, RICHARDSON, LEVIN of Michigan, COYNE, GONZALEZ, and BREWSTER changed their vote from "aye" to "no."

Mrs. VUCANOVICH and Messrs. KYL, SKELTON, BERMAN, WAXMAN, ANTHONY, and BEILENSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I have three amendments at the desk which have been printed in the RECORD, and I ask unanimous consent to consider them en bloc.

The CHAIRMAN pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore.

The Clerk will report the amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. ROHRABACHER: Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States). As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 403, after line 18, insert the following:

"(4) EXCEPTION FOR ASSISTANCE TO DEMOCRATICALLY ELECTED GOVERNMENTS OF REPUBLICS.—Subsection (a)(1) does not apply with respect to assistance provided directly to democratically elected governments within any country that has a federal system of government in which the federal government has a ruling communist majority or provided directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States. As used in this paragraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 575, strike out lines 5 through 9 and insert in lieu thereof the following:

"(b) EAST EUROPEAN COUNTRIES.—For purposes of this Act, the term 'East European country' includes Yugoslavia, any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics or Yugoslavia that has a democratically elected government. As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.".

Mr. ROHRABACHER (during the reading). Mr. Chairman, I ask unanimous consent the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the requests of the gentleman from California? There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I request that you do not take the time out of the gentleman's time. It is difficult to hear. I just simply wanted to say that on this amendment, as we progress, I hope that we can reach an understanding with regard to a limitation on time. I know it is an important amendment. But let us see how it goes, I say to the gentleman from Michigan, and then perhaps we can agree on a time limitation.

The CHAIRMAN pro tempore. The Chair seeks clarification from the gentleman from California. In the gentleman's unanimous-consent request he sought to offer three amendments en bloc. The Chair would suggest that the gentleman has printed a larger number of amendments. Would the request include all of the amendments that the gentleman had printed in the RECORD?

If not, the gentleman should specify at this time.

Mr. ROHRABACHER. Yes, I would like to offer all three that were given to the desk.

The CHAIRMAN pro tempore. The Chair cannot hear the gentleman.

Mr. ROHRABACHER. We submitted three at the desk.

The CHAIRMAN pro tempore. The gentleman will suspend.

□ 1610

Mr. ROHRABACHER. Mr. Chairman, four amendments were printed, but only three were offered at the desk, and we were asking for the three that were offered at the desk to be considered together, en bloc.

The CHAIRMAN pro tempore (Mr. DELLUMS). The gentleman from California [Mr. ROHRABACHER] must tell the Clerk which three amendments he is alluding to.

Mr. ROHRABACHER. All right; one moment. We have already submitted those.

Mr. FASCELL. Mr. Chairman, I am anxious to get this clarified also, and I wonder if the gentleman from California [Mr. ROHRABACHER] showed me his amendment. He has three amendments, and he is offering them en bloc, and we have raised no objection to that.

However, Mr. Chairman, it still leaves the question that the Chair asked, which is: Which three amendments is the gentleman talking about out of those that are printed in the RECORD? We will need a copy.

The CHAIRMAN pro tempore. The Clerk will report the three amendments delivered to the Clerk by the gentleman from California [Mr. ROHRABACHER].

Mr. FASCELL. Mr. Chairman, before we do that, may I inquire further of the gentleman from California?

Mr. Chairman, the gentleman from California [Mr. ROHRABACHER] showed me a single sheet of paper that had three amendments on it and asked me if I had any objection to the consideration of those three amendments en bloc.

Mr. ROHRABACHER. The gentleman from Florida [Mr. FASCELL] is correct. We have three separate amendments.

Mr. FASCELL. I see that, and that is the reason this gentleman is confused, I might say.

Mr. ROHRABACHER. Mr. Chairman, they are basically the same language as three sections of the bill, and we are asking for them to be considered en bloc.

Mr. FASCELL. Mr. Chairman, let me put the question a different way.

These three amendments, copies of which were just delivered to our desk, are they amendments that are now printed in the RECORD?

Mr. ROHRABACHER. The gentleman from Florida [Mr. FASCELL] is correct.

Mr. FASCELL. All right.

Now, in addition to these three amendments, does the gentleman have any other amendments on this subject printed in the RECORD?

Mr. ROHRABACHER. Yes, there are, but we are only considering three of the four that were printed in the RECORD. I have dropped one of the others.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California [Mr. ROHRABACHER] and ask if the Clerk has the right amendments.

The CHAIRMAN pro tempore. The Clerk has been furnished three amendments by the gentleman, and the Clerk will identify the three amendments so that the RECORD is clear on this matter.

The Clerk designated the three amendments offered by Mr. ROHRABACHER as printed prior to this portion of the proceedings.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, today I rise to offer an amendment which will make it the policy of the United States that, whenever feasible, aid will be channeled to democratically elected republic governments, rather than repressive central governments.

It affects the Soviet Union and Yugoslavia, in the current world situation. For those of you concerned about Yugoslavia the moment the Communists are no longer in control of the Yugoslav Central Government, this amendment would no longer apply to them.

This amendment, introduced in the Senate by minority leader BOB DOLE, is based on the Dole-Rohrabacher Direct Aid to Democracies Act. Cosponsors in the Senate include the chairman, Mr. PELL, and the ranking Republican of the Senate Foreign Relations Committee, and over a dozen other Senators. In the House this amendment has wideranging bipartisan support from the gentleman from Michigan, Mr. BONIOR, the chairman of the Veterans' Affairs Committee, Mr. MONTGOMERY, from the gentleman from California, Mr. LANTOS, to the gentleman from Georgia, Mr. GINGRICH.

I recently received a letter, which I will submit for the RECORD, from Paruyr Hayrikyan, a member of the Armenian Supreme Soviet and the president of Democracy and Independence, a coalition of democratic movements from Estonia, Georgia, Latvia, Azerbaijan, Lithuania, Moldavia, Russia, the Ukraine, Byelorussia, and Croatia. Mr. Hayrikian said that aid of any kind to the Soviet Central Government will be the death knell of the democratic movements now active in the Republic throughout the Soviet Union.

The bill we are amending already has language providing for direct aid to the Baltic States, so if there is concern that my amendment would somehow undermine Gorbachev by aiding the Baltics directly, all I can say is: that is already being done. In fact, the bill provides that direct aid can be provided to, and I'm quoting from the bill,

> * * * the government of any republic, and any local government, within the Union of Soviet Socialist Republics that was elected through open, free, and fair elections, and any indigenous nongovernmental organization in the Soviet Union that promotes democratic reforms and market-oriented reforms.

My amendment is, in many ways, the same idea; direct aid to democratic republics. Let me put it this way, the difference between my amendment and the musings over at the State Department is that I am asking to make it our Nation's policy to side with reform over repression, with democracy over communism. And let me add this, contrary to what you may have heard, my amendment does not have anything to do with military aid. Zilch. And the people of this country don't want their incomes taxed so we can channel money to the last vestiges of Communist power in the Kremlin. Any aid coming from this country should go to people who want to build a democratic, free, and peaceful world. It should not go to the Communists in Moscow, Belgrade, or anywhere else.

Our Government continues to tax hundreds of billions of dollars from our people to spend on defense. This is, to a large degree, to defend ourselves from the Soviet military.

And now, senior officials in our Government are seriously talking about a $100 billion dollar bailout program for the Kremlin. This is nonsense of the highest order. The CIA suggests the Soviet Union has about $30 billion in gold, tens of billions more in diamonds, oil, timber, and other treasures. Not to mention a mult-trillion-dollar military arsenal. Let them sell their assets before taxing the American people out of theirs.

Mr. Chairman, the Kremlin bosses recently decided to increase Soviet bombing and logistical support for the Communist regime in Afghanistan. For the first time the multi-million-dollar Mig-29, their most sophisticated aircraft, has been introduced to the Afghan conflict. The Soviet military is landing four to six of its $100 million IL-76 transport planes each day in Afghanistan, loaded to capacity with military supplies. The Soviets have launched over 1,500 Scud missiles, which cost approximately $500,000 each, during just the last 2 years in Afghanistan.

The same clique that gave the green light to the tanks that rolled down the streets of Vilnius now wants our aid. The blood of innocent Lithuanians is still dripping from the tank treds, and repression goes on and on in the Baltics.

This is the same clique who ordered their goons in Soviet Georgia to sharpen their shovels before they hacked peaceful demonstrators to death, as those martyrs hid in fright under church pews. The Soviet military has had operations in Azerbaijan, the Batlics, Modlavia, and Armenia. If they have enough money for sharpened shovels and punitive military operations, they don't need our money, and we should be on their side. We should not be on the side of the brave souls, the martyrs of freedom facing down Kremlin tanks.

We can support democracy or we can keep spending billions to defend ourselves against communism. Let's not come to the rescue. Let this monstrous totalitarian philosophy die, let the last Communist crawl into their caves and trouble mankind no more. Let us create a world where massive armaments are not needed. If we save communism from extinction now, the sound of agony of millions of victims should torment us for unbelievable foolishness.

Mr. Chairman, the Kremlin continues to allocate up to 24 percent of its GNP on its military. The last thing we should do is lessen the economic pressure by supplementing their budget with an infusion of money, money taken from the pockets of the American taxpayer. Let the Kremlin cut its own military spending, let Gorby quit propping up Castro and other Communist dictators. If he needs funds let it come from cutting his military, not by cutting into the pockets of working Americans.

Communism has as bloody a past as any totalitarian ideology in history. The crimes of Stalin and Hitler were equally horrific. The world has lived under a threatening cloud for decades. Now we see a light, a rainbow, the threat seems to be receding. In Yugoslavia, democratic movements have gained the upper hand in Slovenia and Croatia. The Communists still hold the upper hand in Belgrade, but a compromise may be found in a loose confederation. Our aid should not put us on the side of those pushing for a central Communist-controlled regime in Yugoslavia. Our aid should be used to give impetus to compromise which will lead to decentralization and democracy.

In Yugoslavia, in the Soviet Union and yes, China, Burma, and wherever people struggle for democracy against despotic central regimes we should be on the side of freedom. I submit that aiding the Soviet central Government is not in keeping with our principles, our national interests, our values, or our responsibilities.

Our vote today will tell the world whether the United States sides with those struggling for democracy or whether we will, instead seek to curry favor with the last remnant of Communist tyranny. Gorbachev and his clique are communism's last hurrah. He was repeatedly stated his goal: saving communism. Are we going to help him to that?

I say our place is with the reformers, enterprisers, the human rights activists in the Republics. No aid to the clique in the Kremlin.

I ask my colleagues to support my amendment.

Vote yes to the democratic republics.

A vote yes means no aid to Communist dictatorships either in Yugoslavia or the Soviet Union.

Mr. Chairman, I submit for the RECORD letters of support from different Russians and Lithuanians, as well as Americans and others within the Soviet Union who are supporting this amendment.

CONGRESS OF RUSSIAN-AMERICANS, INC.,
Washington, DC, June 11, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: The Congress of Russian-Americans, Inc. fully supports your amendment to ensure that US foreign aid be sent directly to the republics.

The Russian Republic, having proclaimed its sovereignty last June, is trying to move towards a market economy—a move that would benefit the United States. The central government of the Soviet Union, on the other hand, continues to prop up its old bureaucracy, including increased spending in the military sector, and little change toward free enterprise. Therefore, sending aid to the central Soviet government only helps reinforce the old system.

These opinions are also echoed with the USSR. Deputies from Democratic Russia, an umbrella group for democratically oriented parties and deputies, have come out against aid for the central government and asked for aid to be sent directly to the republics. They feel that giving aid to the central communist government only slows down the reform process and helps the communists buy more time and avoid the inevitable need to change their system.

Sincerely,

EUGENIA ORDYNSKY,
Executive Director.

LITHUANIAN-AMERICAN COMMUNITY, INC., NATIONAL EXECUTIVE COMMITTEE,
Arlington, VA, February 21, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: The Lithuanian-American Community, Inc. and its 77 chapters across the country commend your introduction of a bill to amend the foreign policy of the United States to give assistance directly to countries in transition from communism to democracy.

If the government of the USSR is to return to the path of democratic reform, there must be adequate support for the leaders of democratic reform who currently can be found only at the republic level in the USSR. It is in the interest of the United States and other democracies to seek a transformation of the USSR from an antiquated imperial system with a collapsing command economy to a modern state that may or may not include the present republics.

Governments should base their rule on trust, not coercion. The hard-liners who presently have Mikhail Gorbachev's ear do not represent the future and the United States should not be in the business of assisting them as they attempt to consolidate their power over the current USSR governmental structures.

We would hope that your bill will help to direct assistance to Lithuania as well. United States foreign policy has never recognized USSR authority over Lithuania. For the last year the democratically elected government of Lithuania has sought to disengage Lithuania from the control of collapsing USSR central government institutions. The United States in the coming months should move effectively to assist the government of the Republic of Lithuania.

Again, let me express our appreciation to you for your forward-looking and thoughtful proposal which if adopted will serve the interest of democracy.

Sincerely,

ASTA BANIONIS,
Director, Office of Government Affairs.

June 11, 1991.

EESTI VABARIIGI VÄLISMINISTER, MINISTRE, DES AFFAIRES ÉTRANGÈRES DE LA RÉPUBLIQUE D'ESTONIE,

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Attached pleased find letter Nr. 628-P sent by V. Doguzhiyev, Cabinet Minister and Chairman of the Inter-Republic Committee for Controlling the Fulfilment of Economic Agreements between the USSR and the Union Republics, informing my government that no later than June 15th, 1991, a proposal is to be presented for adoption by the Soviet cabinet, stipulating that all dealings between Estonia and the USSR are to be executed in hard currency and at world market prices.

The document should be regarded as an ultimatum making it impossible for the Republic of Estonia to regain her full independence. Having analysed the document I am in the process of preparing a response that in its broad outline will contain the following:

(1) Estonia is prepared to enter into hard currency dealings with the USSR:

(2) Estonia is prepared to pay compensation as established by an internationally recognized arbitration board;

(3) In order to fulfil these commitments Estonia must control hereborders to earn the hard currency so that she may act in her dealings with the USSR "in the principle of a foreign state" as specified in attached document Nr. 628-P.

It is therefore that I invite your help in establishing an internationally recognized arbitration board and to find a new approach in order to reactivate the agreement signed in 1925 by the U.S. and the Republic of Estonia granting Estonia unconditional most-favoured-nation treatment in customs matters to which I made reference in my note of May 12th, 1991. We trust that MFN-status for the USSR currently under consideration will not adversely affect the U.S.-Estonian treaty relationship.

In appreciation of your continued kind consideration of Baltic independence I remain.

Sincerely yours,

LENNART MERI,
Foreign Minister.

U.S.S.R. CABINET OF MINISTERS,
Moscow, the Kremlin, May 13, 1991.

To the leadership of the Union republics, USSR Justice Ministry, USSR Supreme Arbitration Court, USSR Supply Minister [Gossnab CCCR], USSR Finance Ministry, USSR State Bank [Gosbank CCCR], USSR Foreign Ministry, USSR Agricultural Ministry.

Please review with the assignment from May 7, 1991 (PP-14622), keeping in mind that it will be discussed during the Inter-Republic Economic Commission meeting this May.

/SIGNED/ V. DOGUZHIYEV.

U.S.S.R. STATE PLANNING COMMITTEE,
May 8, 1991.

Re Inter-Republic Commission for Auditing Purposes concerning the fulfillment of the economic agreement between the USSR and the Union Republics.

Re On relations among Republics, which are attempting to avoid economic treaty obligations.

In accordance with the Commission's decision of April 18 (protocol No. 2) Gosplan submits the following preliminary analysis on the principles of economic relations with republics, which do not fulfill economic treaties and do not wish to take part in the work of the Inter-Republic Economic Commission.

Two views are currently held by republics on the necessity of the existence of a single unified state.

The leadership of the supreme state organs in the RSFSR, Ukraine, Byelorussia, Uzbekistan, Azerbaidzhan, Tadzhikistan, Kirgizistan and Turkmenistan called for the conclusion, as soon as possible, of a new treaty among sovereign states and the establishment of a most-favored regime for the republics that agreed to this treaty within their economic borders, in their announcement "On Immediate Measures for the Stabilization of the Situations and Resolution of Crisis".

As regards these republics, responsibility for fulfillment of obligations which arise from the economic treaty between the USSR and republics (for example, the "Agreement on the Stabilization of the Socio-Economic Situation in the Nation," economic treaties on the supply of food and raw materials for 1991) would be consequently determined based on an additional treaty, agreed to by all interested parties who would be taking part in the economic treaties indicated.

The following measures could be employed as economic sanctions in [the additional treaty]:

The reduction of centrally distributed and imported resources to republics by an amount equal to the value of production not transferred to the Union budget;

Reduction in subsidies to republics in an amount equal to that not turned over to the All-Union extra-budgetary Fund for Economic Stability and to other All-Union funds;

Employment of USSR State Bank credits in order to erase a republic's indebtedness to the State budget and other funds, while assessing commensurate credit obligations to the USSR State Bank;

Reduce republic contributions to Union reserves by an amount equal to the value of reduced centrally distributed reserves of material-technical resources [to the republics].

It is considered worthwhile in [future] additional agreements that authorized representatives of the USSR and the republics regularly (no less than once every three months) review in joint sessions the place of realization of the treaty and determine the required measures to be imposed on those parties not fulfilling their [treaty] obligations.

A proposal for this additional agreement, in consultation with the Supreme Arbitration Court and the Justice Ministry, was sent by USSR Gosplan to the USSR Cabinet of Ministers on April 30 of this year, as No. 397-P. The amendments recommended in the proposal "Amendments to the Agreement for 991" are already, in essence, economic influence measures which could be employed only following mutual agreement between the USSR and the republics themselves. These recommendations should be purposefully debated with republic leaders themselves. These recommendations should be purposefully debated with republic leaders at the Inter-republican Economic Commission meeting, and a corresponding agreement should be adopted.

In the future, the extent of responsibilities between the USSR and the republics should be defined during the preparation of economic agreements between the USSR and the republics.

As relates to republics, which feel that it is essential to break completely with and secede from the USSR (Lithuania, Georgia, Latvia, Estonia) or those who have adopted an ambiguous position, which have not adopted a final decision on their participation in the renewed Union (Armenia, Moldova), then relations with these republics should clearly be based on the April 3, 1991 law "On the Process by which Issues Involving a Republic's Secession from the USSR are Resolved," or else according to a principle suitable to foreign nations, which refuse to abide by this law. In addition, during the period of transition before the signing of a treaty recognizing their sovereignty, economic questions must be resolved which would defend the interests of the USSR and of those subject to the renewed federation.

Union property located on the territory of these republics must be sold off in its entirety and leased [back] on favorable terms or converted into joint ownership property, preserving for the USSR no less than one half of the property's shares. The possibility should be examined of closing certain enterprises, dismantling the machinery and transferring it from the territory of these republics.

The treaty must include guarantees that these republics will participate in the erasure of the USSR's internal and external debt, and in other obligations agreed to previously with the USSR.

It is essential that credit and currency service to these republics be halted.

Commercial-economic ties with these republics must be based on a greatest advantage principle for the members of the renewed Union. In this regard it is essential that deliveries of raw materials in especially short supply be sharply reduced, as well as those of finished goods, the only exception being deliveries to enterprises remaining under USSR control.

It is essential that deliveries of products imported into the USSR be stopped completely. Simultaneously, it is imperative that imports from these republics to the USSR of those goods whose internal prices are significantly lower than their international prices be sharply curtailed or stopped completely. In addition, subsidies from the USSR budget for the purchase of agricultural products for community reserves will be reduced accordingly.

It is essential that discussions take place concerning the transfer of mutual accounts with non-member republics to an international-price basis, or to prices arrived at on the Union's commodity exchanges.

In order to create the most favorable conditions possible for the economic development of republics which form the unified economic territory, it is essential that the possibility be investigated of instituting, in individual cases, licensing and customs barriers.

It will be essential for the republics participating in the formation of the new Union to review their inter-republic treaties and agreements, eliminating all principles of favoritism towards non-member republics, including access to [joint] Union-Republic hard currency reserves.

Taking into account the need to develop these issues in detail, USSR Gosplan and its departments and functional subunits are charged with preparing, together with USSR ministries and administrative agencies and Union republics accountability and supporting documentation. On the basis of this material, USSR Gosplan will prepare and present to the USSR Cabinet of Ministers a corresponding report no later than June 15, 1991.

V.A. DURASOV.

DEMOCRACY & INDEPENDENCE,
Los Angeles, CA, June 11, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: We are pleased to support any efforts you may undertake to cut off all aid to the central Soviet Government in favor of dealing strictly with the independent states/nations/republics of, what has been termed, the Soviet Union.

It is absolutely essential to the continuation of the democratic movement in the 15 republics held captive by the U.S.S.R., that the United States Congress strongly block any attempt by the Bush Administration to give aid, grain and credits of any kind to the Communist Soviet central Government. In addition to our full support for the blocking of all aid under any circumstances to the Communist central Government of the Soviet Union, we ask that all aid and credits be withheld until such time as the central Soviet Government remove all troops, tanks and weaponry from the occupied territories of the republics.

Since the granting of $1 billion in credits to the U.S.S.R. in December of 1990, it is important that your government remember that it was only after these credits were secured by the central government that Soviet troops cracked down in Lithuania. Then, just this past May, thousands of Armenians were deported and more than one hundred were killed by Soviet troops. Congress condemned this repression of Armenians by the Soviet Government but, at the same time, President Bush renewed MFN to the Soviet central Government congratulating these repressions.

As an elected member of the Armenian Parliament and as President of the coordinating center for the democracy movements in the Soviet Republics (Democracy & Independence), I urge the individual nations, particularly in the West, to cease all new credits, grants, loans, aid and to suspend or revoke Most Favored Nation trading status to the Soviet Government until such time as the Central Soviet Government comes into compliance with the United Nations Declaration on Human Rights, the Conference on Security and Cooperation in Europe (Helsinki

Final Act of 1975), the United Nations Covenant on Civil and Political Rights and the Convention Against Genocide.

On July 4 of this year, the anniversary of your great country's independence, by the initiative of Democracy & Independence, a demonstration will be held against the U.S. Embassy in Moscow. It is our very strong belief that it was not the will of the founding fathers of your nation, when they wrote of the freedom, independence and self-determination of men, for America's future leaders to support a brutal and repressive Communist Central Government over the democratic movement in the U.S.S.R. Should the U.S. Government choose to change its current policy toward aiding this violent and murderous regime rather than attempt to end any movement toward democratic change in the U.S.S.R., as has currenty been its policy, this demonstration will not be necessary.

Once again, thank you for your efforts on our behalf in the interest of human rights for all of our peoples.

Signed,

PARUYR HAYRIKYAN,
President, Democracy & Independence.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the amendments offered by Mr. ROHRABACHER to provide assistance directly to the democratically elected governments of the republics.

If it weren't for the niceties of international relations, I'd like to go even further and give economic assistance directly to those who would actually stand a fighting chance of turning the Soviet economy around.

I'm talking about Soviet farmers, about budding entrepreneurs, about the same kind of people that built the American economy, people who built it through hard work, inventiveness, and individual effort.

Giving the money to Gorbachev is not the solution. Gorbachev and his bureaucrats are the problem.

We have already decided to give Gorbachev $1.5 billion in agricultural credits. I'm not sure why.

In a recent New York Times article, a visiting Soviet journalist asked why a country with record harvests for the last 5 years would possibly want $1.5 billion in credits to buy American grain.

Of course, the answer is the Soviet economic system, a system that leaves billions of dollars of farm products rotting away in farmers' fields while Soviet citizens are forced to stand in line for hours to buy a loaf of bread.

The biggest problem in the Soviet Union isn't the Soviet worker; it's the Soviet system. It's the Soviet bureaucracy with its paperwork production goals, its patronage, its Zil limousines, its dachas, its stranglehold on the energies and talents of the Soviet workers.

If we have to give money to government officials in the Soviet Union, I'd like to give it directly to the people who will make the best use of it, officials in the republics.

Giving the money directly to the republics has two economic advantages. First, the republics don't have the huge bureaucracy that the central government has. That means American dollars won't be sponged up by the huge planning departments.

This amendment is an end run around the Soviet planner. We want to turn the Soviet planner into the Maytag repairman. We want to make sure he becomes the loneliest man in Moscow.

The second advantage of giving money directly to the republics is that they are not burdened by traditional Marxist thinking. That means they will be far quicker to adopt the kind of free market reforms necessary to breathe some life into the Soviet economy.

If we are going to give the Soviets some seed money, we want to make sure it falls on fertile soil.

There is also a third advantage, a political advantage. This amendment promotes grass roots democracy. It offers assistance only to democratically elected governments, governments elected through open, free and fair elections.

Democracy grows best at the grass roots. That's true in the United States, in Yugoslavia, in the Soviet Union.

If we really want to help the people of the Soviet Union and Eastern Europe, we should help them get rid of the dry rot at the top: the secret police, the planning agencies, and the hugely expensive armies.

Let's encourage grass roots economic and political democracy in the Soviet Union and in those states that are casting off the vestiges of communism.

I urge Members to vote for the Rohrabacher amendment.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding. I rise in strong support of the Rohrabacher amendment. I find it very interesting that this debate is being held here today, the same day that the first election in 2,000-years is being held in Russia. I think this bodes very well for the future of support to individual republics. It is our hope that as aid packages proceed, we will be able to see them move directly to free and independent republics.

Mr. Chairman, I am very proud of my friend, the gentleman from Long Beach [Mr. ROHRABACHER], who is offering this amendment.

Mr. MOODY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition, not because we do not want democracy in Eastern Europe, we all do, but because this amendment affects two countries, and only two countries. A very different policy is needed for each one, yet this would apply the same policy, with very, very different results.

Mr. Chairman, the two countries affected are the Soviet Union and Yugoslavia. In the Soviet Union, the argument is aimed that the Baltics need this sort of assistance. I will not quarrel with that. But the thing is, there is already a bill, H.R. 2508, which provides $15 million in direct aid to the Baltics. To assume, as this language would do, that the Baltics and the republics of Yugoslavia are somehow comparable, is a very gross misreading.

Mr. Chairman, I spent 2 years in Yugoslavia, and there is no similarity whatsoever. Yugoslavia was already an association of Republics. It came together because they wanted to

The Baltics were the opposite. They were annexed, involuntarily, by the Soviet Union. To lump those two together and assume there is somehow comparability is a very gross misreading, and a very insulting misreading to the country of Yugoslavia.

I would also point out to my friend, the gentleman from California [Mr. ROHRABACHER] that this is the sort of minute micromanaging of the administration's foreign policy, for which we are frequently criticized from your side of the aisle. The administration has a very firm commitment that the country of Yugoslavia shall remain as a nation. That is very much at the top of the administration's agenda. They do not want to do anything which would destabilize Yugoslavia or begin to tear it apart, which is exactly what this amendment would do.

Mr. Chairman, this amendment would begin to drive wedges between the Republics of Yugoslavia, just at the time when that country is hanging in a very delicate balance. For us to be doing this kind of mischief on the floor of Congress, to be aggravating those tensions, to be promoting the destructiveness within Yugoslavia which is tearing that country apart, for the United States Congress to be part and party of a bill which would exacerbate those difficulties, is mischief in the worst sort and micromanaging of the administration's foreign policy.

Mr. Chairman, this goes directly against the administration's policy regarding Yugoslavia.

Regarding the Baltics, as I said, there is already another bill which does this. They are totally noncomparable. Do not mix them together.

Mr. Chairman, I urge defeat of the Rohrabacher amendment. I think we should support the administration in their policy regarding Yugoslavia, and, on the Baltics, it is a totally different issue.

AMENDMENT OFFERED BY MR. PORTER TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. PORTER. Mr. Chairman, I offer an amendment to the amendments en bloc offered by the gentleman from California [Mr. ROHRABACHER].

The Clerk read as follows:

Amendment offered by Mr. PORTER to the amendments offered by Mr. ROHRABACHER: In the text proposed to be inserted by the amendment on page 29, after line 2, of the bill, add the following at the end:

Nothing in this paragraph shall be construed to preclude assistance to agencies of such federal governments that promote democratic reforms, human rights, the rule of law, and/or market oriented reforms, provided that funds are not provided directly to any such agency.

□ 1630

Mr. PORTER. Mr. Chairman, this amendment is occasioned by support for a program that we have initiated and want to see continued with the Soviet Union whereby Soviet judges and United States Federal judges meet together so that we may help impart to them in their judicial responsibilities in the Soviet Union an understanding of the rule of law and an understanding of what judicial independence means.

I think it is an excellent interface, but under the Rohrabacher amendment as written, it would not be permitted. So this language simply allows a program of that type where money is not going directly to the Soviet Union or to an agency of the Soviet Government but is going to promote the values that we want to share with them. This amendment would permit that kind of program to be continued. I recommend it to the Members.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Porter amendment to the Rohrabacher amendment to the foreign assistance appropriations bill and commend both Mr. PORTER and Mr. ROHRABACHER for their efforts and support of this measure.

The proposed amendment to section 862 provides technical assistance for the Baltic States and for democratic governments and nongovernmental organizations in the Soviet Union.

Additionally, the amendment would permit assistance to Soviet governmental agencies that promote human rights, the rule of law, democratic reforms, and market oriented reforms. However, it would limit aid to technical assistance only, prohibiting direct financial assistance to such agencies.

Mr. Chairman, this amendment is needed to continue and expand the State Department's efforts to engage reformers in the Soviet Union in the process of democratic and legal change through such activities as judicial seminars and training, exchanges of legal experts, funding of scholarships for Soviet law students, and support for United States law professors to teach in Soviet law schools.

For example, the State Department recently organized a judicial exchange program whereby three U.S. Federal judges were sent to Moscow for 2 weeks of intensive legal discussions. They attended the Soviet Government's Judicial Training Institute, engaging 42 Soviet judges in discussions and seminars on the independence of the judiciary and the proper role of judges in a democratic society. This program is helping to develop an independent Soviet judiciary that can work against human rights abuses.

Mr. Chairman, in this age of improved United States-Soviet relations, I urge my colleagues to support this important amendment.

Mr. DURBIN. Mr. Chairman, I move to strike the last word.

I will be very brief. I fully support the efforts of this amendment to provide assistance to the Baltic Republics. I have worked with many of the Members on both sides of the aisle because of our belief that they are in fact independent nations and should be recognized as such by the United States.

Regretfully, I will have to oppose this amendment because I believe including Yugoslavia in this amendment complicates it far beyond the simple principles that we are trying to uphold in the Baltic Republics. I have to concur with my colleague from Wisconsin who spoke earlier. I do not believe it does a service to the people in the Baltic Republics for them to be in a position today where they are brought together with the situation in Yugoslavia.

They are not analogous situations, though the people of both areas may be seeking democracy. They are on a different track at a different chronology, and I think it is unfair for Members to lump them together in this instance. I will fully support any efforts by the gentleman from California and others to extend assistance directly to the governments of the Baltic Republics, freely and democratically elected, and to make certain that there is a fair and equitable distribution of any U.S. aid to those republics.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

First of all, let me note that there is no mention of Yugoslavia in this legislation. It simply sets a principle that applies to whatever country we are referring to in terms of supporting democratic republics over any type of centralized system that is controlled by the Communists.

I would like to ask my colleague from Illinois about his amendment. Is it my colleague's intent that this amendment to the degree feasible would be carried out in a way that would go to the democratic republics wherever feasible?

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. PORTER. The gentleman is correct.

Mr. ROHRABACHER. And with that, Mr. Chairman, I would accept the amendment.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Indiana.

Mr. HAMILTON. We find the gentleman's amendment unobjectionable here, but I do have a question about its impact. If I understand what the gentleman is doing, the Porter amendment is amending policy language and saying in this policy language, adding language which says that nothing shall be construed to preclude certain kinds of activity. What the gentleman is not doing is authorizing those activities. So I just raise the question with the gentleman whether or not the language he offers accomplishes what he seeks to accomplish.

Mr. PORTER. Mr. Chairman, if the gentleman will yield, the gentleman from Indiana is correct that this amends a policy provision, but I find in the three Rohrabacher amendments that this is the appropriate place to add this because there does not seem to be any authorizing language. There seems to be language that states what the policy of the United States is.

I might say to the gentleman from Indiana that in this morning's markup of the foreign operations appropriation bill, that language similar to this was added to that bill in the appropriate section dealing with the funding. So that I assume that, taken together and going to conference on both, we will end up with a proper decision, assuming that the Rohrabacher amendment is adopted and assuming this amendment is adopted.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield further?

Mr. ROHRABACHER. I yield to the gentleman from Indiana.

Mr. HAMILTON. I think the language has merit, and we certainly do not oppose it, but I wanted to clarify that point because I think it is an important point.

Mr. ROHRABACHER. I accept the language.

The CHAIRMAN pro tempore (Mr. DELLUMS). The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER] to the amendments offered by the gentleman from California [Mr. ROHRABACHER].

The amendment to the amendments was agreed to.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Rohrabacher amendment. First of all, let me acknowledge that the amendment of the gentleman from California is very well intentioned and has some

merit to it, but I think it really does have a detrimental impact on the currently very delicate situation in Yugoslavia.

The first thing I want to point out is what the bill before the committee does with respect to the Baltic States and with respect to the Soviet Union.

The bill that the gentleman from California seeks to amend provides money directly to the Baltic States, and it provides an equal amount of money to nongovernment organizations in the Soviet Union or democratically elected local governments in the Soviet Union.

Now, there has been a lot of talk in support of this amendment with respect to the Soviet Union. But the fact of the matter is that the amendment does not impact the Soviet Union and does not change in any way the language that we have in the bill with respect to the Soviet Union.

We provide the possibility of assistance to nongovernmental organizations and to democratically elected local governments in the Soviet Union. That is already in the bill.

What this amendment does is impact Yugoslavia and provides the possibility of assistance to the republics, the various republics of Yugoslavia that are democratically elected. I would like to indicate to the committee why I think that kind of an amendment is mischievous.

First of all, what it does is it involves the United States directly in the complicated and delicate internal situation in Yugoslavia.

□ 1640

It puts the United States in the position of taking sides in what could very well be an impending civil war in Yugoslavia, and that is not in our national interest to do at this time.

The amendment of the gentleman from California directly contradicts the policy of President Bush and of this administration at the present time. The amendment, in effect, encourages the United States to encourage secession in Yugoslavia, and that should not be the basis of our policy.

We are not in the position now of picking winners or losers in Yugoslavia. This is not the time for that.

In the current situation, if we provide assistance to the various republics in Yugoslavia, we will derail the very important inter-republic talks that are now going on. That is a matter not for the United States but for the republics of Yugoslavia to revolve.

The President has made very clear that he supports unity, he supports democracy, and he supports a peaceful dialog in Yugoslavia. He has rejected the idea of selecting favorites within Yugoslavia, and that is what this amendment seeks to do, to select favorite republics within Yugoslavia.

May I suggest that the President needs flexibility in the coming months in dealing with the delicate situation in Yugoslavia. Yugoslavia's problems cannot be reduced to the simple argument of the good guys versus the bad guys, which is much of the rhetoric in support of this amendment.

We should not reverse very longstanding policy of not taking sides in Yugoslavia.

Mr. Chairman, I think that while this amendment is well intended, and it has certainly considerable appeal, it is an amendment that Members of this body want to look at with very great care and caution, because I believe it could have a detrimental effect on a very delicate situation in Yugoslavia today. It clearly runs counter to American policy in Yugoslavia.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I am happy to yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I listened intently to the gentleman's remarks, which I think were well considered.

The CHAIRMAN pro tempore (Mr. DELLUMS). The time of the gentleman from Indiana [Mr. HAMILTON] has expired.

Mr. COX of California. Mr. Chairman, I move to strike the last word.

If the portion of this legislative language dealing with Yugoslavia were severed, would the chairman support the amendment offered by the gentleman from California [Mr. ROHRABACHER]?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. My understanding is if the language is taken out of these several amendments dealing with Yugoslavia, you would then have language dealing only with the Baltics, and I find that language unnecessary, quite frankly.

The amendment does nothing for the Baltics that is not already in the bill.

Mr. COX of California. I have read carefully these amendments, and it is my view and understanding from the legislative language that it would apply in that case to all of the Republics comprising the Soviet empire.

Mr. HAMILTON. Mr. Chairman, I am sorry, I did not hear the gentleman. Would he repeat his concern?

Mr. COX of California. It is my view, having read the legislative language, as so amended, in the matter that we are discussing, it would then apply to all of the constituent Republics of the Soviet Empire, not just the Baltics, and I should say and the Baltics, which the United States does not recognize as part of the Soviet Empire.

Mr. HAMILTON. If the gentleman will yield further, I think the gentleman, if I understand, and I am just looking at the language now, it provides directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States.

Mr. COX of California. There is a conjunctive; it goes on to say after the comma, "and any republic within the Union of Soviet Socialist Republics that has a democratically elected government."

Mr. HAMILTON. The gentleman is operating from a different amendment than I have. We may have different language. I am operating on the basis of language that was furnished to me by the minority.

Mr. COX of California. It is an en bloc amendment, what I am reading from, and it has the code number at the top that says ICA91A097.

Mr. HAMILTON. I think, if the gentleman would yield further, that we are dealing with two different amendments.

Mr. COX of California. Mr. Chairman, I would ask of my colleague, the gentleman from California [Mr. ROHRABACHER]: Is it the gentleman's understanding that the legislative language that the gentleman is offering applies exclusively within the Soviet Union to the Baltics, or would it apply to any republic?

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, this legislative langauge does not mention the Soviet Union, or it does not mention Yugoslavia. It sets a basic, fundamental principle that we will not be providing our foreign aid to any Communist dictatorship as long as there is a democratically elected republic within the confines of that country, and in terms of the Soviet Union, this language is very specific. We are not just talking about the Baltics. We are talking about all of the democratically elected republics within the Soviet empire. It is not about Yugoslavia. It is not about the Soviet Union. It is not Serbs versus Croats. It is democracy versus communism.

For those who would try to change the nature of this debate and try to focus on, you might say, issues in terms of ethnic issues, rather, in terms of principle, the principle of this legislation is very clear, and in terms of just the Soviet Union, it does not deal with the Baltics alone. It is very clear that this legislation deals with all of the elected republics.

Mr. COX of California. Reclaiming my time, I asked the question, because it is my understanding that the gentlewoman from Maryland may be offering an amendment that would strike the portions dealing with Yugoslavia, and I wondered if in that case the chairman would be willing to support the amend-

ment offered by the gentleman from California [Mr. ROHRABACHER].

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Before I try to answer that question, we simply must get clear as to what countries and what republics we are talking about here. Several times, on several occasions, the gentleman from California who offered the amendment has said that he is not talking about Yugoslavia. One of these amendments that I have mentions Yugoslavia by name.

Second, he says, if I understand the other gentleman from California correctly, that the language which I quoted a moment ago applies to republics other than the Baltic Republics. Let me quote the language I have in front of me to make sure we are talking from the same sheet of music here.

It says, "to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the Federal Government has a ruling Communist majority." Now, that language, we believe, applies to Yugoslavia, and in one of the other en bloc amendments, Yugoslavia is specifically mentioned.

Mr. ROHRABACHER. If the gentleman will yield further, that is correct, as a matter of principle.

Mr. HAMILTON. The second part of the language is, "as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized in the United States."

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. COX] has expired.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take some time myself, but for this purpose, I yield to the gentleman from California [Mr. COX] for the purpose of a colloquy.

Mr. COX of California. Mr. Chairman, I think I may have resolved our difficulty with the legislative language. The language from which the chairmen was reading is styled as an amendment, as it were, to the Support for East European Democracy Act, the SEED Act, and for that purpose, I think the chairman is correct. It covers only the Baltic States and Yugoslavia.

Another part of the en bloc amendments is meant to strike out at page 575, lines 5 through 9, and insert in lieu thereof the following, "Paragraph (b), East European Countries. For purposes of this act, the term 'East European country' includes," and if Yugoslavia were stricken, it would say, "any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics that has a democratically elected government," and it is on that basis that I believe we should be able to agree that the gentleman from California has offered language that would apply to all of the constituent Republics of the Soviet Empire as well as to the Baltic countries.

□ 1650

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, some of this wording has to be put down in order to meet the sensitivities of people in the Baltic States who do not believe that they were ever incorporated into the Soviet Union or that they were ever Soviet Republics. The purpose of some of this language problem, at this point in time, was simply to take care of that sensitivity.

Mr. BEREUTER. Mr. Chairman, reclaiming my time, I would say that I think it is imperative that the amendments offered by the gentleman do not reach to Yugoslovia. It is crucial that we not, in effect, throw gasoline on a fire.

If, in fact, we are providing assistance or offering the possibility of assistance to Slovenia, to Croatia, but not to Serbia, and that would be the effect of the situation at the moment, then indeed we are moving in a fashion that is contrary to the policy of this administration. This administration is trying its best by public actions and by diplomatic means, to keep this loose confederation of republics together as the nation of Yugoslavia.

Last year when we had debate on this issue, we were concerned, and defeated an amendment which would have addressed the problem in Kosovo, because it would be deemed to be divisive within that nation, betwen Serbs, Croatians, Slovanians, and others.

I think the gentleman from Illinois [Mr. DURBIN], the gentleman from Wisconsin [Mr. MOODY], and the chairman of the Subcommittee on Europe and Middle East have made this point very well. Either the gentleman from California [Mr. ROHRABACHER] has to find a way to remove Yugoslavia, or this gentleman has to oppose it.

I will ask the gentleman one more question: If we are talking about the Republics of the Soviet Union, I certainly am of the view that perhaps assistance should be given to the Baltic Republics; but what about Moldavia? Moldavia, of course, is in part made up of an area that was annexed by the Soviet Union into its borders, and we have never recognized that annexation. Please address how the gentleman would treat not only the Baltic nations, but Moldavia as well.

Mr. ROHRABACHER. If the gentleman will yield for a question, what makes the gentleman think that Serbia would be left out of an aid program from my legislation? What would lead the gentleman to that conclusion?

Mr. BEREUTER. Reclaiming my time, I would say it is my understanding from the gentleman's description of his amendment that he is dealing with democratically elected governments. There is at least some question, as I understood it, between whether or not all of the Republics of Yugoslavia have had democratic elections.

Mr. ROHRABACHER. If the gentleman will yield, according to my legislation, if Serbia had a free and fair election which was recognized by the United States, and that Serbia was recognized as a democratic republic, they would not be left out.

Mr. BEREUTER. That is correct, but there are other republics that have not had the kind of election they have in Croatia.

Mr. ROHRABACHER. If the gentleman will continue to yield, that is correct. Would the gentleman suggest that it is proper for the United States to set limits, that our aid is not flowing to Communist controlled dictatorships rather than democratic republics?

Mr. BEREUTER. Reclaiming my time, this gentleman supports the policy of the administration that we are not going to pull apart by our actions that nation of Yugoslovia. The best policy for the United States is to encourage democracy, to encourage that confederation to stay together, and to live peacefully. That should be our objective. That is why the administration would oppose any amendment that differentiated in our treatment among the republics of that country.

Mr. FASCELL. Mr. Chairman, I strike the requisite number of words. I have listened to the debate very carefully, and I read the language of the gentleman's amendment. He made it very clear that this ideological struggle he is trying to perpetuate legislatively applies strictly to the Soviet Union and Yugoslavia, by the definition of his own amendments.

I do not see, after reading the three amendments, how in the world they can be cleaned up without rewriting them, to do whatever it is he is trying to do, to get a vote on whether a Member is for Communist government or against the Communist government. Frankly, that is not the issue. The fact is that this bill contains no aid to any Communist governments, but we do have a proviso in the bill that recognizes that the Baltic States and other democratically elected governments in the Soviet Union could be eligible recipients for assistance.

Of the assistance that is provided, $15 million for economic assistance, we say specifically in the language of the bill that half shall be allocated for assistance to the Baltic States of Estonia, Latvia, and Lithuania, and half allocated for assistance to eligible recipients in the Soviet Union that request technical assistance from the United States.

If my colleagues will turn to the next page it says, what is an eligible recipient? I want to be sure this is understood, so that we do not get hung up on whether or not there is a Communist under the bed again. That definition is the government of any republic and any local government within the Union of Socialist Republics that were elected through open, free, and fair elections. I do not know much cleaner we can get. I do not see where the gentleman's amendment adds anything to that, it sure adds a lot of confusion with regard to the issue of Yugoslovia and the problems there.

The definition goes on to include "Any indigenous nongovernmental organization in the Soviet Union that promotes democratic reform and market-oriented reforms." So, the core of what the gentleman proposes or seeks to get at in his amendment is not in the bill, unless he is trying to backtrack on the President's granting of agricultural credits to the Soviet Union. If the gentleman wants to do that, his amendment does not reach that.

This amendment simply clouds the issue of the very clear policy statement that we have laid down in this bill, and it gets into the struggle that has gone in with regard to the matters in Yugoslavia. There is no reason for the United States, as a matter of national policy, by legislation, to appear to be taking sides in that struggle, when it is the national policy of the United States, supported by this President, that we are trying to do what we can to make sure that that place does not fly apart.

Mr. Chairman, the only sensible action is to vote down the Rohrabacher amendment. The language in the bill is explicitly clear. We support only the government of any republic in a local government within the Union of Socialist Republics which was elected through open, free, and fair elections. I do not know how we can say it any plainer than that. As far as the Communists are concerned, they can shift for themselves. I urge a no vote on the Rohrabacher amendment.

Mrs. BENTLEY. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I had some amendments that I had sent to the desk to perhaps clean up the Rohrabacher amendment, eliminating Yugoslavia. However, I am not going to ask that those be brought up at this time.

I concur with the chairman of the committee, the gentleman from Florida [Mr. FASCELL] and the gentleman from Indiana [Mr. HAMILTON], as I concur with the gentleman from Illinois [Mr. DURBIN] and the gentleman from Wisconsin [Mr. MOODY], and the gentleman from Nebraska [Mr. BEREUTER] that this amendment should be voted down. It is confusing, and very confusing.

As has been said, I think we need to emphasize that current United States official policy is one of steadfastly refraining from taking sides in the complex ethnic disputes that have been rocking Yugoslavia in order to promote internal stability without bloodshed.

Yugoslavia has been on the brink of a bloody civil war. Last week and over the weekend, leaders from the six republics reached a fragile accord regarding further steps toward a unified Yugoslavia. Language in the Rohrabacher amendment would give de facto recognition to the six republics as separate sovereign states by directly providing SEED money not to Yugoslavia as a whole, but to specific republics. That is against our policy.

This is in conflict with United States official policy in two ways: One, the sovereign State of Yugoslavia would be superseded by its component political parts; and two, the United States would show bias toward specific republics. In fact, the State Department has communicated to me their confusion as to the purpose of this amendment.

□ 1700

President Bush, in a March 1991 letter to Prime Minister Markovic of the Yugoslavian Federation, stated:

> It should be absolutely clear that the United States does not and will not favor any particular national or ethnic group in Yugoslavia. At the same time, we want to see differences among nationalities resolved within the framework of a single, democratic Yugoslavia and will not encourage or reward those who would break the country apart.

A State Department release on May 24 reiterates this point:

> By unity we mean the territorial integrity of Yugoslavia within its present borders. We believe that the ethnic heterogeneity of most Yugoslav Republics means that any dissolution of Yugoslavia is likely to exacerbate rather than resolve ethnic tensions.

And that is exactly what we do not want to do.

In addition, both the World Bank and the European Economic Community are on record as opposing the breakup of Yugoslavia.

Mr. Chairman, there is no doubt that Yugoslavia is facing some very real and very serious problems. These problems are those that the nation inherited as a result of the system that the Communist dictator, Marshal Tito, imposed upon it, a system that we accepted as long as it suited our strategic interests.

Yugoslavia may no longer be a chip in the poker game of East-West security interests. Nevertheless, it remains a friendly nation to the United States.

We should not take this opportunity to reverse decades of United States policy toward Yugoslavia with this amendment, which is very insulting to the Government of Yugoslavia.

Mr. Chairman, we should vote down the Rohrabacher amendment.

Mr. OAKAR. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I would like to associate myself with the thrust of what the gentlewoman said. I do not think this is the time to undermine some of the workings that are going on in Yugoslavia. Certainly there are problems there within various republics. We all know that, but I think for this Congress in this manner to undermine the threat of stability of the Yugoslavian Federation at this time is the wrong time. Maybe in the future there may be separate republics once there is a stable approach to it, but this is I think very superficial.

The gentlewoman from Maryland is right. I chair the subcommittee related to oversight over the World Bank, and that is absolutely accurate. They do not support this concept at this time, and we are going to jeopardize important projects to get that area and that region. For the sake of each ethnic identity, we should vote down this amendment.

Mrs. BENTLEY. Mr. Chairman, I thank the gentlewoman from Ohio.

Mr. SARPALIUS. Mr. Chairman, I move to strike the requisite number of words. I will be very brief.

I have had the opportunity to go to Lithuania twice in the Baltic States in the past 2 years. I have been involved in their struggle for independence.

I recently got off the phone and discussed these amendments with organizations that are located within the United States that are supporting the cause for independence in Lithuania. They have a tremendous amount of concern about the way these amendments are worded as far as recognizing the Baltic States as a republic of the Soviet Union.

I think we should make it very clear that 50 years ago at the end of the war when the Soviets took over those Baltic States, they took them over by force. For the past 50 years, every President in this country has never, ever recognized the presence of the Soviet Union in those Baltic States until now. Because we have not given them the recognition that they so rightly deserve, they are still struggling to gain that recognition.

I commend Congress for taking a giant step toward giving some financial assistance to those Baltic States, but I am very concerned about the wording

of these amendments by again expressing our country as recognizing the Baltic States as a republic of the Soviet Union.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to associate myself with the others who have spoken in opposition to the Rohrabacher amendment, as amended, which I believe is a direct threat to the stability of the Yugoslavian Federation.

The issue of assistance to the Republic in Yugoslavia is a very complex matter. Recently, leaders from the six republics reached a fragile agreement regarding further steps toward a unified Yugoslavia. To compare this voluntary action to the situation in the Soviet Union is quite misleading. Assistance directed to individual republics in Yugoslavia would only destroy the existing delicate balance in this country, which is striving for unity.

Problems in Yugoslavia cannot be reduced to the good versus the bad, nor are the problems ideological in nature—such as Communists versus non-Communists, as is presented in the Rohrabacher amendment. Problems in Yugoslavia are ethnic tensions between the Serbs and the Croatians, which have been present for decades. The United States should continue the policy of not taking sides in Yugoslavia's ethnic disputes. All constituencies should receive full and fair consideration of our Nation.

Mr. Chairman, for the reasons I have listed, I urge my colleagues to please support Yugoslavian stability and defeat the Rohrabacher amendment.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as I have indicated, I rise in strong opposition to this amendment. The longer the debate goes on, the more confused the Members are getting.

We are told that the Rohrabacher amendments en bloc only state a general policy, and that is one of direct aid to democratically elected republics, but basically, if you look at the amendments as my friend, the gentleman from Indiana [Mr. HAMILTON] has said, what we are trying to do here is provide for direct aid to the republics in Yugoslavia.

Let us make no mistake about it. The bill, it is my understanding this is correct, that the bill already provides aid to the Baltic States, so that bascially that should not even be a question.

I think when the gentleman from Indiana [Mr. HAMILTON] says the amendment is unnecessary for that stated goal, he is very accurate.

So what is left in the amendment? As the other speakers have indicated, it is aid to the republics in Yugoslavia.

Mr. Chairman, by aiding individual republics in Yugoslavia with direct assistance, the authors want the United States basically to take sides in this conflict. If we do so, we will only worsen the bloodshed and the tension and undermine the good faith negotiations.

Yugoslavia, Mr. Chairman, is close to civil war. The last thing the Yugoslav republics need is direct assistance when delicate negotiations to avert a civil war are underway.

This amendment is in direct contradiction to the President's stated policy. The policy is to let the Yugoslav people decide their own future in a democratic fashion. So far the policy has helped to avoid civil war.

The State Department also openly opposes this amendment.

The authors link Yugoslavia and the Baltic States. They confuse apples and oranges. The two situations could not be more fundamentally different. Direct aid to the Yugoslav republics will propel that nation into civil war.

Similar aid to the Soviet republics would not do the same to the Soviet Union.

Yugoslavia is a voluntary union of republics; the Soviet Union is not.

Mr. Chairman, direct assistance to the republics will result in bloodshed and threatens the development of democracy in Yugoslavia, and I urge my colleagues to vote against the amendments.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a good amendment. I would hope the committee would pass it.

I recognize that there are some problems with regard to Yugoslavia and perhaps those can be taken care of, if not today, at some later time; but my interest and concern is primarily that of the Soviet Union, with the U.S.S.R.

Last December I led a delegation from the National Republican Institute for International Affairs to the Soviet Union to discuss with the democratic opposition there the chances for and ways we might assist in promoting democracy, and it was very plain to me that all those people with whom we spoke, and we spoke with almost all of the legitimate democratic opposition leaders, it was very plain to me that they believed very strongly that the Central Government, the Supreme Soviet and so on, is using their power to put down the movements toward democracy in the republics. They felt, for example, that the food shortage that was going on then, and I suppose still is, was being exacerbated by the Central Government.

□ 1710

And they ask that aid go to the cities and the republics. And I think that what we are talking about in this amendment insofar as the Soviet Union is concerned is a way that we can be of assistance and to promote democracy in that country.

I would point out, for example, that in the Russian Republic, long before Gorbachev went back, again, in one more of his convolutions to promote private property, that the Russian Republic was already doing that, as was the city council of the city of Moscow.

So I would hope that my colleagues would support the Rohrabacher amendments.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, we hear a lot of talk today about confusion. We hear a lot of talk about how people do not understand the issue. I can assure all of you that there are people around the world who understand what the issue is here today. They are not confused. They are not confused when they see simple language that says it is the policy of the United States to support democratic republics, when there is an option to support democratic republics over Communist central governments.

The people in Communist prisons are not confused, the people who live under tyranny are not confused. I would hope that my Members would take a look at this language and try to find the true intent of this legislation and to understand that it is in keeping with the principles of the U.S. Government and the values of our people that we side with those poeple who believe in democracy and the reformers who are trying to establish democractic institutions whether they are in Yugoslavia or the Soviet Union.

Now we are told we must side with stability. Stability? I thought we stood for freedom in this country.

I thought that our people fought these wars and so many people over the years have sacrificed so that our country can stand for something better than other countries, better than stability with the Soviet Union or stability with Nazi Germany.

We are supposed to be a country that believes in individual liberty. Our Declaration of Independence did not talk about freedom being the rights of Americans, it talked about freedom and independence and those God-given rights being the rights of all mankind.

For God's sake, let us not try to put fog in this hole when we have the pictures of George Washington and Lafayette watching us.

People in other countries understand what is going on here, and they will understand if we vote this chance down

because they will not only be disappointed, their hopes will be dashed because they know that the United States of America is their only hope.

I do not care what the pinstripers over at the State Department say; they are not the ones who stand for values of this country. No one elected them. We were elected, and we were elected to reflect the democratic values of this country.

We can put up a big fog bank and say we are confused, or we can talk about our fundamental principles. Yugoslavia will not be pouring gasoline on the fire to stand for freedom, it will enforce our will in the sense that we will be giving an incentive to the Communists in Yugoslavia to reach a compromise with those people who are pushing for democratic reform. That will be the effect of this. It will not be a rendering, it will be a coming together.

If we vote this down, the Communists in Yugoslavia will never reach a compromise. They will not feel compelled to reach a compromise, because all of you will have given them the message that we do not care whether they are a dictatorship or a democracy.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time just to express to the Members my understanding of what the bill does and what the amendment does.

I want it very clear that the bill, as it stands, provides assistance to the Baltics, Estonia, Latvia and Lithuania. As it stands, the bill provides assistance to democratically elected republics and local governments in the Soviet Union and it also provides assistance to nongovernment entities in the Soviet Union.

It is my understanding that, despite all of the rhetoric here, that the gentleman's amendment does not add anything to the bill with respect to the Soviet Union, because we already have a provision that takes care of democratically elected local governments and republics.

It is my understanding that the gentleman's amendment does add to the bill by making it possible to provide assistance to the republics of Yugoslavia. And that is the portion of the bill that I think is certainly contrary to the policy of President Bush and, secondly, though well-intentioned, will have a very detrimental effect on an exceedingly delicate situation in Yugoslavia.

The amendment runs counter to what American policy has always been in Yugoslavia, and that is to promote the unity and the democracy and dialog, the peaceful dialog, in the country. What this amendment does is say that we are going to take sides in Yugoslavia now, and, at the delicate point that the country is at, that is a bad mistake for this country to make.

So I think this amendment, though very well-intentioned, has a great deal of capacity for achieving mischief.

Mr. Chairman I urge the Members to vote against it.

AMENDMENTS OFFERED BY MR. COX OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER, AS AMENDED

Mr. COX of California. Mr. Chairman, I offer amendments to the amendments, as amended.

Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The Clerk will first report the amendments.

Mr. FASCELL. Mr. Chairman, reserving the right to object, I have been burned once and I do not want to get burned again.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

Mr. COX of California. Mr. Chairman, I offer amendment No. 1.

Mr. FASCELL. Mr. Chairman, I am not insisting; I would like to know what the amendments are, to what, is it printed in the RECORD, or what are we doing here?

The CHAIRMAN pro tempore. As soon as the Clerk has the amendments before him, he will report them, and then the gentleman may question.

Mr. COX of California. Mr. Chairman, I ask unanimous consent to consider the amendments as read.

Mr. FASCELL. Mr. Chairman, I am sorry, I just cannot do that. At least give us the courtesy of seeing the amendments.

I want to reserve points of order, the right to object, and anything else.

The CHAIRMAN pro tempore. The gentleman reserves his points of order and his right to object.

Mr. FASCELL. Mr. Chairman, burn me once, it is OK; burn me twice, it is my fault.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. COX of California to the amendments offered by Mr. ROHRABACHER, as amended: Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States); *Provided*, That economic assistance to Yugoslavia, otherwise authorized by law shall not be prohibited as a consequence of this provision. As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 403, after line 18, insert the following:

"(4) EXCEPTION FOR ASSISTANCE TO DEMOCRATICALLY ELECTED GOVERNMENTS OF REPUBLICS.—Subsection (a)(1) does not apply with respect to assistance provided directly to democratically elected governments of republics within the Soviet Union or States whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States. As used in this paragraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 575, after line 9 insert the following:

"(c) EAST EUROPEAN COUNTRIES.—For purposes of this Act, the term 'East European country' includes any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics that has a democratically elected government. As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.".

The CHAIRMAN pro tempore. The Chair will rule that because Rohrabacher amendments are en bloc and these amendments are amendments to the en bloc amendments, they are in order and do not require unanimous consent.

The gentleman is recognized for 5 minutes.

Mr. COX of California. I thank the chairman.

Mr. Chairman, I have watched this debate with great interest. I have been persuaded, frankly, by a number of arguments by my colleagues on both sides. I think that, in particular, the situation in Yugoslavia is a sensitive one, and I have observed that a number of my colleagues would be willing to support the Rohrabacher amendments offered en bloc were it not for the provisions dealing with Yugoslavia. It seems to me that the points raised by my colleague from California with respect to Yugoslavia are meritorious. I hope that we can debate them, perhaps even later on in the context of this bill. I think we would benefit, however, from focusing now on the areas of our agreement. I think this body is in general agreement that there is much to be said for sending aid, if we are to send aid at all, and I add that the Rohrabacher amendment does not call for sending any aid at all but sending that aid to democratically elected governments rather than, in specific, to the center, to the Kremlin.

□ 1720

Mr. Chairman, this amendment is being offered today, as the gentleman from California [Mr. DREIER] noted earlier, on a day when the people of Russia; not the people of the Soviet Union, but the people of Russia, are going to the polls for the first time in 2,000 years, and what they will do, we all know, is overwhelmingly vote to reject communism, to reject the policies of the center, of the Kremlin. At the same time the people of Leningrad are going to the polls, and they are going to vote

to change the name of that city to reject the legacy of Vladimir Lenin, the superczar, the father of communism in the Soviet Union, and rename that city St. Petersburg.

On a day when that is happening, I think it is fitting for us to adopt the amendments of the gentleman from California [Mr. ROHRABACHER] as they apply to the Soviet Union, and that is why I am offering my amendments en bloc to the Rohrabacher amendments to strike those portions dealing with Yugoslavia so we may focus on our areas of agreement.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I appreciate what the gentleman from California [Mr. COX] is trying to do. We are trying to figure out if what he says is what he does. All right?

Now, as I understand it, what the gentleman is trying to do is take Yugoslavia out of the language of the amendments of the gentleman from California [Mr. ROHRABACHER] either specificially or generically; is that correct?

Mr. COX of California. Mr. Chairman, the gentleman is correct, both specifically and generically.

Mr. FASCELL. Mr. Chairman, one of the questions that arises, therefore, is this: That in the effort to do that there is no program in this bill for the Soviet Union, and some of this language would make it appear as if it would not make the Soviet Union eligible for SEED money, which we would not support.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, let me just reinforce that, if I may.

We are looking now at the amendment that begins, "page 575, after line 9, insert the following," and it has the East European countries.

Mr. COX of California. Yes.

Mr. HAMILTON. What is said there is "any republic within the Union of the Soviet Socialist Republics that has a democratically elected government," and the way the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and I are interpreting this, the effect of the gentleman's amendment, is to make any of the democratically elected governments in the Soviet Union eligible for all of the programs under SEED.

Mr. Chairman, the effect of that could be to take all or a large part of the money now given in Eastern Europe and send it to the Soviet Union, to the democratically elected republics. Is that what the gentleman intends?

Mr. COX of California. Mr. Chairman, reclaiming my time, it is the purpose of this gentleman to ensure that none of the funds provided under this bill goes to Communist governments, specifically the Communist government in the center, in the Kremlin.

As one who, as the gentleman knows, worked originally on the SEED Act, I am also very much interested in assisting countries in Eastern Europe that are seeking to rid themselves of communism, and that is why, when originally we designed the SEED Act, we provided specifically for assistance to Poland and to Hungary. The purpose, as I understand it, of the amendment of the gentleman from California [Mr. ROHRABACHER] is to essentially prohibit any funds from this bill being distributed to a Communist government anywhere in Eastern Europe or in Moscow, but permitting assistance to governments like that in Poland and in Hungary that have been democratically elected and are seeking to rid themselves of communism.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from California [Mr. COX] has expired.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I think we understand what the gentleman is trying to do, remove Yugoslavia from the amendment of the gentleman from California [Mr. ROHRABACHER], and we approve of that obviously.

However, Mr. Chairman, the amendment that I was referring to a moment ago defines East European countries, and what the gentleman is doing is making the Soviet Union an Eastern European country for purposes of the SEED Act, if I understand it, so that all of the moneys that we now make available for SEED, Poland, Hungary, Czechoslovakia, could flow to the Soviet Union.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, the purpose of the language that was read just a moment ago that says that for purposes of this act the term "East European country" includes, and I will read now, "any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and it has a democratically elected government," is obviously to get us at the Baltic countries.

Mr. HAMILTON. That is right.

Mr. COX of California. Going on: "any republic within the Union of Soviet Socialist Republics that has a democratically elected government," might get us, might get us to a Georgia, for example.

Now it seems to me that this program makes a great deal of sense as applied to democratically elected governments of that sort, and I would not be prepared automatically to say that we should not authorize support for democratically elected governments within the Soviet Union.

Now of course Moscow is going to take the position that Lithuania is within the Soviet Union, and we are in this bill expressly providing assistance to Lithuania nonetheless, and I think that the same argument ought to apply to Georgia.

Now of course we agree that Lithuania, Latvia, and Estonia are not part of the Soviet Union, but neither does Georgia want to be. It has declared its independence.

Mr. HAMILTON. Mr. Chairman, would the gentleman yield further?

Mr. DOOLITTLE. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, the difference then is this: the bill that we have provides a very limited amount of assistance to the democratically elected governments, republics and local governments in the Soviet Union. That amount of money is $7.5 million. The amendment of the gentleman opens up all of the money that is authorized for the SEED program. That is roughly $400 million. All of that money then could be used under the gentleman's amendment for democratically elected republics in the Soviet Union, if I understand it, because what the amendment does is to define the countries that are in the Eastern European area.

Mr. COX of California. Mr. Chairman, will the gentleman yield for a question?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, in whose discretion would that SEED money be distributed?

Mr. HAMILTON. If the gentleman would continue to yield, obviously it would be pursuant to law, and it could be distributed to any of the countries that qualify under this definition.

Mr. COX of California. And in whose discretion would that money be allocated?

Mr. HAMILTON. It would be the discretion of the President.

Mr. COX of California. Mr. Chairman, if the gentleman will continue to yield, I think that is the point, and earlier in the gentleman's remarks I listened carefully and understood that his objection was based upon the fact that vis-a-vis this particular amendment we might be diverging from the policies of President Bush, and I think, certainly as one who used to work as a lawyer for President Reagan, I understand the prerogatives of the Executive in foreign policy. I would agree with the Chairman that we ought not to intrude on that discretion. This amendment

maintains the President's discretion punctiliously in that respect.

Mr. HAMILTON. Mr. Chairman, if the gentleman would yield further, I just want to make it clear so that everybody knows what they are doing here. What they are doing here is opening up $400 million that can go to the democratically elected Republics of the Soviet Union. Now that just does not seem to me to be a wise step to take at a time when we are engaged in very delicate negotiations with the Soviet Union, and the great debate in this country is: Are we going to enter into some kind of a grand bargain in the Soviet Union?

May I point out that to the extent the gentleman diverts money and gives it to the Republics of the Soviet Union, he takes that money away from Poland, and from Hungary, and from Czechoslovakia, and I do not think that is visible.

So, just to conclude, the purpose of the amendment of the gentleman from California [Mr. COX], the principal purpose of his amendment, is to exclude Yugoslavia from the amendment of the gentleman from California [Mr. ROHRABACHER], and I support that and commend the gentleman for it. But I must say this language, I think, opens up a vast domain of assistance to the Soviet Union that I think is unwise.

□ 1730

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, was it not the understanding of the gentleman that the opposition from the other side was just to Yugoslavia?

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, that is what I understood during the previous portion of the debate, and that is why I offered my amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, just so I can finish offering my amendment, let me simply conclude and tie a bow around this discussion by saying it is my purpose, as the author of these amendments, simply to focus us on our obvious common area of agreement, and that is to deny United States assistance to the Kremlin; to instead focus any aid, and this amendment does not in fact require any aid, but to focus any aid that is given only to democratically elected governments.

Mr. Chairman, it is thus best looked at as an amendment that prevents aid from going to the center, rather than encouraging it to go where it otherwise was not going.

Mr. Chairman, I would simply say for the benefit of all Members who will be called upon to vote upon this, that as a matter of legislative history, it is clearly my intent and the intent of every Member engaging in colloquy on this subject, that we not direct any special aid into the Soviet Union. Rather, the purpose of this amendment is to carve out Yugoslavia for subsequent debate, and to focus us on this legislative prohibition on aid to Moscow center.

Mr. FASCELL. Mr. Chairman, reclaiming my time, I just took this time to make it positively clear that I was opposed to all aspects of the Rohrabacher amendment, both as it applies to the Soviet Union and as it applies to Yugoslavia, with the amendments or without the amendments, and with the new offer that has just been made on the floor here by a consolidated amendment.

There is nothing in this bill nor anywhere else that provides any assistance to the Soviet Union. So I do not know what the gentleman is after.

Now, the gentleman says he is willing to take Yugoslavia out of it, both specifically and generically. I hope that is the case. I accept it as that. But I am not ready to accept an enlargement of authority to the President of the United States, even though it may be discretionary, when that authority is not now in the bill.

Mr. Chairman, this does not make any sense to me. I do not know why we would want to do that even in the enthusiasm, the zeal, the anxiety to get a vote on no aid to Communists. If you want to do that, just print a big sign, "No aid to Communists."

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I appreciate the remarks of the gentleman from Florida [Mr. FASCELL]. In fact, I have appreciated this discussion. This has been a rare opportunity actually to craft legislation in collegial fashion.

Mr. Chairman, I am persuaded by the remarks of the gentleman from Florida [Mr. FASCELL], and I am willing, having offered three amendments en bloc, to withdraw that amendment labeled amendment No. 3. That would leave us with amendments 1 and 2. It seems to me that addresses in its entirety the objections raised by the Chairman.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

Mr. FASCELL. Mr. Chairman, reserving the right to object, I yieled to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I want to make sure I understand the impact of what the gentleman from California [Mr. COX] has done. If you take out the amendments that the gentleman and I had a colloquy about, the impact then of the remaining two amendments that are being offered is to exclude Yugoslavia from the Rohrabacher amendment specifically?

Mr. COX of California. Mr. Chairman, if the gentleman will yield, that is right.

Mr. HAMILTON. Also generically, as the gentleman from Florida [Mr. FASCELL] says, is that correct?

Mr. COX of California. Mr. Chairman, that is correct.

Mr. HAMILTON. Mr. Chairman, if that is correct, then we can accept the gentleman's two amendments.

Mr. COX of California. Mr. Chairman, we also need to have an agreement that the No. 3 amendment, the amendment which I withdrew, also includes language in the original Rohrabacher amendment that I was amending. That language in its entirely must be stricken from the Rohrabacher amendment for our understanding to make any sense. That is to say, we should not make any amendment to the SEED Act.

The CHAIRMAN pro tempore. The Chair would inquire, is it the intention of the gentleman from California [Mr. COX] to withdraw the third part of his amendment, or the third part of the Rohrabacher amendment?

Mr. COX of California. Mr. Chairman, the third part of the Rohrabacher amendment.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Chairman, the gentleman from California [Mr. COX] did not propose the Rohrabacher amendment. How can the gentleman withdraw it?

The CHAIRMAN pro tempore. The sponsor, the gentleman from California [Mr. ROHRABACHER] should make such a request by unanimous consent.

Mr. FASCELL. Mr. Chairman, reserving the right to object, I would like to hear from the gentleman from California [Mr. ROHRABACHER].

Mr. COX of California. Mr. Chairman, with due regard for our parliamentary procedures, I will yield to the gentleman from California [Mr. ROHRABACHER], and ask unanimous consent that he withdraw that portion of his amendment.

The CHAIRMAN pro tempore. The Chair would request that the gentleman from California [Mr. ROHRABACHER] make that request.

Mr. ROHRABACHER. Mr. Chairman, I make that motion.

The CHAIRMAN pro tempore. Without objection, so ordered.

Mr. FASCELL. Mr. Chairman, I still have a reservation of objection here. I want to be sure what we are talking about. As I understand it, there are three separate amendments that were being considered en bloc. I understand the request of the gentleman from California [Mr. COX] to be asking unanimous consent to withdraw the third of those amendments that was offered en bloc. That is what I understand so far.

Mr. Chairman, I want to be sure we are still playing off the same sheet of music. I would like for us, for the RECORD, simply to identify in some way that particular amendment, because the numbers here are confusing, particularly if you turn them around.

Mr. ROHRABACHER. Mr. Chairman, we are talking about an identification No. ICA91A097. It is at page 575, and talking about, "After line 9, insert the following."

Mr. FASCELL. Mr. Chairman, under my reservation of objection, let me ask the gentleman from Indiana [Mr. HAMILTON] if he now has the right amendment?

Mr. HAMILTON. If the gentleman will yield, I have the amendment, ICA91A097, June 7, 1991, page 29.

Mr. COX of California. Mr. Chairman, if the gentleman will yield, I think I can add clarification. We are removing that part of the original Rohrabacher amendment that amended the SEED Act. It is exactly nine lines in length. It begins with subparagraph (b), and the caption "East European Countries." That paragraph in its entirety would be stricken from the Rohrabacher amendment.

The CHAIRMAN pro tempore. It might be useful if Members were to meet in the center aisle and exchange copies.

Mr. HAMILTON. Mr. Chairman, it would be helpful to me if I could see now the language of the two amendments that the gentleman has.

The CHAIRMAN pro tempore. The Chair would state that at this point the gentleman from Florida [Mr. FASCELL] is reserving the right to object.

Mr. FASCELL. Mr. Chairman, I appreciate the Chair stating that. I am still reserving the right to object, so that when I get through, I will not be as confused as I am right now about what we are talking about over here.

If we could get back to the basic Rohrabacher amendment, which was in three parts or three amendments put together, and could see the first two parts of that amendment, then I think the gentleman from Indiana [Mr. HAMILTON] would be in a better position to know what it is he is agreeing to. Right now I am not really anxious to have him agree to anything, until I understand what it is he is agreeing to.

□ 1740

Hopefully with a little patience, Mr. Chairman, we will have that attended to. We have so many Rohrabacher amendments over here now we cannot even count them, much less know which one is which.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). The gentleman from Florida [Mr. FASCELL] continues to reserve the right to object.

Mr. FASCELL. I would rather take this dull thud in the proceedings, Mr. Chairman, than to be forever anxious about what it is we did.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Florida, the distinguished chairman, for yielding.

Mr. Chairman, as I read even these two, as they are constituted, part of the republics in Yugoslavia could still be singled out and no aid sent to them. That is the way I read it. As these are here, there is so much paper flying around, nobody knows what is going on.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, as a point of clarification that has been taken care of.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from California.

Mr. COX of California. The committee chairman and I have been able to engage in a private colloquy, which I will share with my colleagues. We have come to an understanding that my amendment to the Rohrabacher amendment now compromises exactly two paragraphs and a third paragraph of that that dealt with the SEED Act has been dropped by unanimous consent at the request of Mr. ROHRABACHER.

As a consequence, the net effect is that we are looking at the Rohrabacher amendment.

The CHAIRMAN pro tempore. The Chair wants to clarify, there has been nothing by unanimous consent so far. Nothing has been withdrawn.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. I think we all understand the intent of the gentleman in the well. That is, to remove Yugoslavia from the Rohrabacher language. That is acceptable to us.

The question in our mind is whether or not the language actually achieves that, and I am sure we can have a lot of debate about it. But it is going to be a useless debate. What I would suggest is that we simply accept the gentleman's two amendments that he has now offered, take him at his word that what he is trying to do there is to exclude Yugoslavia. Then we would not be committed to the specific language of the gentleman's amendment in the conference, but we would work with the gentleman to exclude Yugoslavia from the Rohrabacher amendment.

Mr. FASCELL. And not expand the SEED Program.

Mr. HAMILTON. And not expand the SEED Program to the Soviet Union.

Mr. COX of California. Mr. Chairman, if the gentleman will yield further, I think in particular our understanding that we will not expand the SEED Program is a useful one. I think that has been a very solid product of this debate. Given the extraordinary patience of all the Members throughout this proceeding, I think it is a valuable compromise to address this in specific in the conference and to vote upon this language for the time being.

Mr. FASCELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The third part of the amendment is now withdrawn.

Mrs. BENTLEY. Mr. Chairman, I move to strike the requisite number of words.

In view of what Chairman HAMILTON said to the gentleman from California [Mr. COX] that in the conference they would see to it that Yugoslavia would not be covered or included in any way, I would like to particularly request that it would also not single out any Republics of Yugoslavia. And with that understanding, then I will withdraw any objection that I might have placed.

Mr. HAMILTON. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I will give the gentlewoman my assurance on that point.

Mr. KLECZKA. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Wisconsin.

Mr. KLECZKA. Mr. Chairman, I also fully support the chairman on the agreement reached with the gentleman from California [Mr. COX], but know full well that in amendment No. 1 what is left in this amendment is assistance to any republic within any country and the added provision would be and also to the central government in Yugoslavia. So with the understanding that that is an error that will be corrected, I have no objection. But the amendment as drafted by the gentleman from California would provide aid to any republic in Yugoslavia and also to the central government, which is current law.

Mrs. BENTLEY. With that understanding, I yield back the balance of my time.

MODIFICATION TO THE AMENDMENTS OFFERED BY MR. COX OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. COX of California. Mr. Chairman, I ask unanimous consent that the amendment submitted to the desk be amended as the desk now possesses it.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Cox amendment No. 1; modification offered by Mr. COX of California to the Cox amendment No. 1: On line 6, after "to" delete everything up to and including the end of line 9.

The CHAIRMAN pro tempore. Is there objection to the modification of the Cox No. 1 amendment?

There was no objection.

Mr. HAMILTON. Mr. Chairman, would the Clerk repeat that language, please?

The Clerk read as follows:

Modification offered by Mr. COX of California to part 1 of the Cox amendment as offered: On line 6, delete after the word "to" everything up to and including the end of line 9.

The CHAIRMAN pro tempore. Is there objection to the modification?

There was no objection.

The text of the Cox amendment No. 1, as modified, is as follows:

Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democractically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States; provided, that economic assistance to Yugoslavia otherwise authorized by law shall not be prohibited as a consequence of this provision. As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

The CHAIRMAN pro tempore. The question is on the amendments, as modified, offered by the gentleman from California [Mr. COX] to the amendments offered by the gentleman from California [Mr. ROHRABACHER], as amended.

The amendments, as modified, to the amendments, as amended, were agreed to.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California [Mr. ROHRABACHER], as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—MILITARY ASSISTANCE, RELATED ASSISTANCE, AND MILITARY SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ASSISTANCE AUTHORITIES

SEC. 201. REVISION OF ASSISTANCE PROGRAMS.

The Foreign Assistance Act of 1961 is amended by striking out part II and inserting in lieu thereof the following:

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"SEC. 2101. FINDINGS AND STATEMENTS OF POLICIES REGARDING MILITARY ASSISTANCE.

"(a) FINDINGS.—The Congress finds that—

"(1) to advance our principal foreign policy objectives—the promotion of democratic values, the promotion of peace, the fostering of economic progress through the encouragement of market forces, and international cooperation in countering transnational dangers such as terrorism and narcotics trafficking—the United States must foster a climate in which all nations can live in security and stability;

"(2) where threats to such a climate arise, through the persistence of regional conflicts, the threat of aggression fostered by military imbalances among neighboring nations, the proliferation of weapons of mass destruction, the continued proliferation of conventional weapons of increasing capability, or the persistent attempts by armed groups violently to overthrow democratically elected governments, it is in the interest of the United States to address those threats;

"(3) so long as foreign countries lack the resources to meet their security needs without external assistance, military assistance provided by the United States will remain one of the principal instruments available to us to advance our principal foreign policy goals;

"(4) together with other assistance provided under this Act, military assistance can contribute to the development of economic and social improvements that enhance the development and maintenance of democratic political systems;

"(5) military assistance facilitates—

"(A) the development of comprehensive political relationships with the leadership of friendly foreign countries, and

"(B) the development of cooperation, through such means as treaty alliances and other security arrangements, in meeting threats to international security; and

"(6) assistance under this title can also support multilateral efforts through the United Nations and other international organizations to promote peaceful settlements of disputes.

"(b) MORE EQUITABLE DISTRIBUTION OF COLLECTIVE DEFENSE RESPONSIBILITIES.—The Congress recognizes that the scope of threats facing friendly foreign countries is such that military assistance from the United States will not be sufficient to meet collective defense and security requirements. The Congress, in authorizing military assistance under this title, expects that the President will exert maximum effort in seeking the support of the member countries of the North Atlantic Treaty Organization and other allies in providing enhanced military assistance, in coordination with the United States, to friendly foreign countries so as to bring about a more equitable distribution of the responsibilities of collective defense, particularly with respect to assistance associated with the maintenance of military bases.

"(c) SELF-SUFFICIENCY.—Military assistance provided under this title to friendly foreign countries should serve as a necessary transition to effective self-help measures that will make such assistance unnecessary in the future.

"(d) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services, including controls on the furnishing of assistance for the procurement of such articles and services.

"SEC. 2102. OBJECTIVES OF MILITARY ASSISTANCE.

"The authorities to furnish military assistance that are provided in chapters 2, 3, 5, and 6 of this title shall be exercised (subject to the supervision and direction of the Secretary of State pursuant to section 2921) to achieve the following objectives:

"(1) Promoting self-defense and defense cooperation by financing the acquisition by friendly countries of United States major defense equipment and other defense articles and defense services, including acquisition through licensed production and coproduction.

"(2) Promoting the effectiveness of military forces of friendly countries with respect to command, control, communications, intelligence, mobility, training, and logistical support.

"(3) Promoting rationalization, standardization, and interoperability of the military forces of friendly countries with the Armed Forces of the United States.

"(4) Supporting peacekeeping operations and activities and related programs, in particular those sponsored by the United Nations or other international organizations.

"(5) Increasing the awareness of nationals of friendly countries of basic issues involving democratic values and institutions, especially respect for internationally recognized human rights.

"(6) Supporting the establishment in friendly countries of a relationship between civilian and military sectors appropriate to a democratic system of government.

"(7) Improving the capability of the armed forces of friendly countries to carry out, at the direction of the civilian government, activities which are complementary to economic development projects that benefit the civilian population.

"(8) Enhancing the military capability of friendly countries to meet their security needs.

"(9) Providing support for friendly countries to combat the illicit flow of narcotic and psychotropic drugs and other controlled substances and to combat international terrorism.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"SEC. 2201. AUTHORITY TO FURNISH ASSISTANCE.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military assistance to any friendly country or international organization by—

"(1) acquiring from any source and providing (by grant and loan) any defense article or defense service;

"(2) financing the sale of defense articles or defense services; or

"(3) providing financing under subsection (b).

"(b) FINANCING PROCUREMENT BY COMMERCIAL LEASING.—

"(1) ELIGIBLE COUNTRIES; DETERMINATIONS.—Financing may be provided under this section to any country that is a member of the North Atlantic Treaty Organization or is a major non-NATO ally for the procurement of defense articles by leasing (including leasing with an option to purchase) from United States commercial suppliers if the President determines that there are foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under the Defense Trade and Export Control Act.

"(2) NOTIFICATION TO CONGRESS.—Any exercise of the authority of this subsection shall be subject to the regular notification requirements of the appropriate congressional committees under section 6304.

"(c) OBLIGATION OF FUNDS.—

"(1) OBLIGATION OF GRANT FUNDS.—

"(A) OBLIGATION UPON APPORTIONMENT.—Funds appropriated to carry out this chapter on a grant basis may be obligated for a particular country or international organization upon apportionment in accordance with paragraph (5)(C) of section 1501(a) of title 31, United States Code.

"(B) LIMITATION.—Funds appropriated to carry out this chapter on a grant basis shall be available to finance the procurement of defense articles and defense services that are not sold by the United States Government only if the country or international organization proposing to make such procurement has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.

"(2) DEOBLIGATION OF FUNDS AFTER 3 YEARS.—Any agreement to provide assistance under this section shall include a provision expressly granting the United States Government the right to deobligate any funds furnished under the agreement that have not been committed for an approved use by the end of the 3-year period beginning on the date on which that agreement is entered into.

"(d) LOANS OF DEFENSE ARTICLES.—

"(1) LIMITATIONS.—Defense articles may be loaned under subsection (a)(1) only if—

"(A) there is a bona fide reason, other than a shortage of funds, for providing such articles on a loan basis rather than a grant basis;

"(B) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

"(C) the loan period is of fixed duration not exceeding five years, during which period such article may be recalled for any reason by the United States;

"(D) the agency making the loan is reimbursed for the loan based on any amount that is charged in accordance with paragraph (2) to the appropriation to carry out this chapter; and

"(E) the loan agreement provides that—

"(i) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and

"(ii) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

"(2) CHARGE TO APPROPRIATION ACCOUNT.—(A) In the case of any loan of a defense article under this chapter, there shall be a charge to the appropriation to carry out this chapter while the defense article is on loan, except as provided in subparagraph (B). Such charge shall be in an amount based on—

"(i) the out-of-pocket expenses authorized to be incurred in connection with such loan; and

"(ii) the depreciation that occurs while such article is on loan.

"(B) Subparagraph (A) does not apply to any defense article (or portion thereof) that is acquired with funds available to carry out this chapter or that is made available under the special drawdown authority of section 2901. In the case of defense articles made available under section 2901 that are loaned under this subsection, the value of the defense articles (in terms of their replacement cost less any depreciation in their value) shall be counted against the limitation in subsection (c)(1) of that section.

"(e) EXCLUSION OF CERTAIN COSTS FROM CERTAIN SALES.—Sales under the Defense Trade and Export Control Act which are wholly paid from funds—

"(1) which are made available on a grant basis under this chapter, or

"(2) which, prior to the effective date specified in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of this Act or were made available on a nonrepayable basis under the former authority of section 23 of the Arms Export Control Act,

shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard) and the unfunded estimated costs of civilian retirement and other benefits.

"(f) FINANCING FOR COPRODUCTION OR LICENSED PRODUCTION.—Assistance may not be furnished under this chapter in any case involving coproduction or licensed production outside the United States of any defense article of United States origin unless the President furnishes full information regarding the proposed transaction to the appropriate congressional committees. Such information shall be furnished before the coproduction or licensed production arrangement is approved by the United States Government or, if the decision to provide assistance is made after the arrangement is approved, before the assistance is furnished. Such information shall include—

"(1) a description of the defense article that would be coproduced or produced under license outside the United States;

"(2) the estimated value of such coproduction or licensed production; and

"(3) an analysis of the economic impact on the United States of furnishing or not furnishing the proposed assistance.

"(g) PROCUREMENT INVOLVING CERTAIN VESSELS OF WAR.—

"(1) PROHIBITION.—Except as provided in paragraph (2), if the President so determines, assistance described in paragraph (3) may not be used for the procurement of—

"(A) any vessel of war built pursuant to a prime contract awarded to a foreign shipyard; or

"(B) any weapons system or other major system or subsystem for any vessel of war built pursuant to a prime contract awarded to foreign shipyard rather than a United States shipyard because of unfair foreign competition (such as subsidization or the provision of financial or material incentives to the foreign country for which the vessel is built).

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to a vessel of war that—

"(A) is built in the foreign country that is the recipient of the assistance; or

"(B) is built pursuant to a prime contract signed before the effective date of this subsection.

"(3) ASSISTANCE SUBJECT TO PROHIBITION.—The prohibition in paragraph (1) applies with respect to any obligation of assistance under this section, and any expenditure of MAP or FMS assistance, totaling more than $1,000,000.

"(4) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'MAP or FMS assistance' means any assistance under the former authorities of chapter 2 of part II of this Act or section 23 of the Arms Export Control Act; and

"(B) the term 'vessel of war' means any vessel of war in Category VI of the United States Munitions List, without regard to whether the vessel is imported into or exported from the United States.

"(h) CIVIC ACTION IN AFRICA.—Funds appropriated to carry out this chapter may be used for civic action in Africa notwithstanding section 6204 of this Act and any similar provision of law that prohibits assistance to countries in default on obligations owed to the United States.

"SEC. 2202. TERMS OF FINANCING ASSISTANCE.

"(a) IN GENERAL.—Financing may be provided under this chapter on a grant basis, on a credit basis, or as guaranties, subject to the requirements of the Federal Credit Reform Act of 1990.

"(b) CRITERIA FOR DETERMINING TERMS OF FINANCING.—In determining whether financing under this chapter will be provided to a foreign country on a grant, credit, or guaranty basis, the President shall take into account the following:

"(1) The national security and foreign policy interests of the United States in furnishing such assistance to that country.

"(2) The legitimate national security and self-defense needs of that country, taking into account regional and other threats to its security.

"(3) The economic conditions and circumstances of that country, including its per capita gross national product, debt service ratio, and external debt and rescheduled external debt, and whether the country has been designated as a middle income country by the International Bank for Reconstruction and Development.

"(c) TERMS OF CREDITS.—

"(1) REPAYMENT PERIOD.—In the case of credits provided under this chapter, the President shall require repayment in United States dollars within a period not to exceed 12 years after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by law for that country or international organization.

"(2) INTEREST RATE.—The President shall charge interest on credits provided under this chapter at such rate as the President considers appropriate, except that such rate may not be less than 5 percent per year.

"(d) FINANCING ASSISTANCE.—Funds used to finance the procurement of defense articles and defense services under section 2201(a) (2) or (3) shall be disbursed—

"(1) to suppliers (including the United States military departments) on behalf of the recipient country or organization; or

"(2) to the recipient country or organization as reimbursement upon submission of satisfactory proof of payments to suppliers.

"(e) GUARANTIES.—Any guaranties issued under this chapter shall be backed by the full faith and credit of the United States.

"(f) USE OF ASSISTANCE FOR DEBT REPAYMENT.—

"(1) AUTHORITY.—Funds appropriated to carry out this chapter may be made available to a foreign country to make payments of principal and interest that it owes to the United States in connection with sales of defense articles or defense services on account of credits previously extended to it, or loans previously guaranteed, under this chapter (or under the former authorities of the Arms Export Control Act or any other predecessor military sales or military assistance legislation), subject to paragraph (2).

"(2) PROHIBITION ON PREPAYMENT.—Funds made available to carry out this chapter may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

"(g) CONGRESSIONAL NOTIFICATION OF CHANGES IN CREDIT OR GUARANTY ASSISTANCE.—At least 15 days before obligating funds for credits or guaranties under this chapter—

"(1) for any country for which credits or guaranties (as the case may be) were not justified for that fiscal year, or

"(2) for any country in an amount greater than the amount of credits or guaranties (as the case may be) justified for that country for that fiscal year,

the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"SEC. 2203. ELIGIBILITY.

"(a) CONDITIONS.—Financing may not be furnished under this chapter for the procurement of defense articles or defense services by a foreign country, and defense articles or defense services may not otherwise be furnished under this chapter or chapter 3 to a foreign country, unless that country has agreed to the following (in addition to such other provisions as the President may require):

"(1) The country will not, without the consent of the President—

"(A) transfer title to, or possession of, such articles or services to anyone who is not an officer, employee, or agent of that country; or

"(B) use or permit the use of such articles or services for purposes other than those for which furnished.

"(2) The country will maintain the security of such articles or services, and will provide substantially the same degree of security protection afforded to such articles or services by the United States Government.

"(b) INELIGIBILITY.—

"(1) TERMINATION OF ASSISTANCE FOR SUBSTANTIAL VIOLATIONS.—Assistance and deliveries of assistance under section 2201(a)(1) to any country shall be terminated, and new commitments to provide financing under section 2201(a) (2) or (3) to that country shall not be made, as hereinafter provided if such country uses defense articles or defense services described in paragraph (2) in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement pursuant to which those defense articles or defense services were furnished—

"(A) by using (without the consent of the President) such articles or services for a purpose not specified in paragraph (3) or, if such agreement provides that such articles or services may only be used for purposes more limited than those specified, for a purpose not authorized under such agreement;

"(B) by transferring (without the consent of the President) such articles or services to anyone not an officer, employee, or agent of the recipient country; or

"(C) by failing to maintain the security of such articles or services.

"(2) DEFENSE ARTICLES AND DEFENSE SERVICES SUBJECT TO REQUIREMENTS.—Paragraph (1) applies with respect to any defense articles or defense services furnished (through financing or otherwise) under this Act, sold or leased under the Defense Trade and Export Control Act, or furnished under any predecessor foreign assistance or military sales legislation.

"(3) USES PERMITTED.—The purposes referred to in paragraph (1) are the following:

"(A) Legitimate self-defense.

"(B) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(C) Internal security.

"(D) Construction of public works or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.

"(4) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance shall be terminated, and new commitments to provide assistance shall not be made, pursuant to paragraph (1) if—

"(A) the President so determines and states in writing to the Congress, or

"(B) the Congress so determines by joint resolution.

"(5) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) may have occurred.

"(6) PERIOD OF TERMINATION.—Assistance to a country shall remain terminated in accordance with paragraph (1) until such time as—

"(A) the President determines that the violation has ceased; and

"(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"SEC. 2204. APPROVAL OF THIRD COUNTRY TRANSFERS.

"(a) IN GENERAL.—In considering a request under section 2203(a)(1) for approval of any transfer to a third country of any defense article on the United States Munitions List (other than any such defense article the useful life of which has expired) or any defense service, the President shall not give his consent to the transfer unless the United States itself would transfer the defense article or defense service under consideration to that country.

"(b) SIGNIFICANT MILITARY EQUIPMENT.—In addition, the President shall not give his consent under section 2203(a)(1) to the transfer of any significant military equipment on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such equipment prior to transfer, or the proposed recipient provides a commitment in writing to the United States Government that it will not transfer such equipment if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

"SEC. 2205. IMPROVED ACCOUNTABILITY WITH RESPECT TO FINANCED COMMERCIAL ARMS SALES.

"(a) FINDINGS.—The Congress finds that—

"(1) government-to-government sales of defense articles and defense services that are financed under this chapter are subject to various accountability requirements pursuant to the Federal Acquisition Regulation; but

"(2) comparable accountability requirements have not been applied to commercial sales of defense articles and defense services that are financed by the United States Government; and

"(3) more stringent eligibility standards and fiscal and accounting controls (including improved access to records) need to be established with respect to financed commercial arms sales.

"(b) MONITORING AND AUDITING REQUIREMENTS.—In order to carry out subsection (a)(3), the President shall establish controls providing that financed commercial arms sales shall be subject to monitoring and auditing requirements no less stringent in terms of accountability than those requirements of the Federal Acquisition Regulation that are applicable to sales under the Defense Trade and Export Control Act and that relate to improper business practices and personal conflict of interest.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)); and

"(2) the term 'financed commercial arms sales' means any procurement of defense articles or defense services (other than by sale or lease under the Defense Trade and Export Control Act)—

"(A) which is financed in whole or in part with assistance under this chapter, and

"(B) with respect to which an export license is required under section 38 of Defense Trade and Export Control Act.

"(d) EFFECTIVE DATE.—The controls established pursuant this section shall be established not later than one year after the date of enactment of this section.

"SEC. 2206. CONSIDERATIONS IN FURNISHING ASSISTANCE.

"Decisions to furnish assistance under this chapter shall be made in coordination with the United States Arms Control and Disarmament Agency and shall take into account the Agency's opinion as to whether such assistance will—

"(1) contribute to an arms race;

"(2) increase the possibility of outbreak or escalation of conflict; or

"(3) prejudice the development of bilateral or multilateral arms control arrangements.

"SEC. 2207. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) FISCAL YEARS 1992 AND 1993.—There are authorized to be appropriated to the President to carry out this chapter $4,411,444,000 for fiscal year 1992 and $4,840,000,000 for fiscal year 1993.

"(b) RESERVE FUND FOR CERTAIN COUNTRIES.—

"(1) FUNDS SET ASIDE FOR CERTAIN COUNTRIES.—Two percent of the aggregate amount of financing provided on a grant or credit basis under this chapter for each of the fiscal years 1992 and 1993 shall be available only for assistance for otherwise eligible countries for which the Congress has not by law specified a minimum or a maximum amount of assistance to be provided under

this chapter for that fiscal year. To the extent necessary to carry out this paragraph, funds may be made available for use under this paragraph notwithstanding any provision specifying such a minimum (other than a provision specifying a minimum for Israel or Egypt).

"(2) NOTICE TO CONGRESS.—At least 15 days before obligating funds for a country under this subsection, the President shall notify the appropriate congressional committees.

"(c) CERTAIN GENERIC AUTHORIZATIONS SUPERSEDED.—The authorizations of appropriations provided in section 505(a) of the Federal Credit Reform Act of 1990 for the costs associated with any loan and loan guaranty programs do not apply with respect to credits and guaranties under this chapter.

"CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES

"SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS.

"(a) AUTHORITY.—Notwithstanding any other provision of law, the President may transfer to any eligible country such excess defense articles as may be necessary to help modernize the defense capabilities of that country.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer will not have an adverse impact on the military readiness of the United States;

"(4) transferring the excess defense articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale; and

"(5) the transfer is not prohibited by section 6202 (relating to assistance for law enforcement forces).

"(c) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.

"(f) NOTIFICATIONS TO CONGRESS.—

"(1) DESIGNATION OF ADDITIONAL ELIGIBLE COUNTRIES.—The President shall notify the relevant congressional committees at least 15 days before designating a country as an eligible country pursuant to subsection (h)(1)(A)(iii)(II).

"(2) PROPOSED TRANSFERS.—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to be transferred.

"(3) PROCEDURES APPLICABLE TO NOTIFICATIONS.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(g) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—Excess defense articles shall be made available under this section consistent with the United States policy, established by section 5501 of this Act, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1991, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section,

closely approximates the ratio of—

"(i) the amount of foreign military financing assistance provided for Turkey, to

"(ii) the amount of foreign military financing assistance provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under this section.

"(h) DEFINITIONS.—

"(1) ELIGIBLE COUNTRIES.—(A) For purposes of this section, the term 'eligible country' means a country—

"(i) for which foreign military financing assistance was justified for the fiscal year in which the transfer of excess defense articles under this section is authorized;

"(ii) that is eligible to receive foreign military financing assistance at the time of the transfer; and

"(iii) that either—

"(I) is a grandfathered country, or

"(II) has been designated by the President as an eligible country for purposes of this section.

"(B) As used in subparagraph (A)(iii)(I), the term 'grandfathered country' means a country—

"(i) that is a member of the North Atlantic Treaty Organization, a major non-NATO ally, or a country in North Africa, and

"(ii) that was eligible to receive excess defense articles under the former authority of section 516 of this Act (as in effect immediately prior to the effective date specified in section 1101 of the International Cooperation Act of 1991).

"(2) EXCESS COAST GUARD PROPERTY.—For purposes of this section and sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard. For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.

"(3) MADE AVAILABLE.—For purposes of subsection (g), the term 'made available' means a good faith offer is made by the United States to furnish the excess defense articles to a country.

"(4) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2302. MODERNIZATION OF COUNTERNARCOTICS CAPABILITIES OF MAJOR ILLICIT DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—The President may transfer to an eligible drug producing or transit country such excess defense articles as may be necessary to carry out subsection (b).

"(b) PURPOSE OF TRANSFERS.—Excess defense articles may be transferred to an eligible drug producing or transit country under subsection (a) only for the purpose of encouraging military forces and law enforcement agencies of that country to participate cooperatively in a comprehensive national counternarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of narcotic or psychotropic drugs or other controlled substances.

"(c) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be transferred under subsection (a) to an eligible drug producing or transit country only if that country ensures that those excess defense articles will be used primarily in support of counternarcotics activities.

"(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4102 of this Act, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other counternarcotics enforcement programs assisted by the United States Government.

"(e) DOLLAR LIMITATION ON TRANSFERS TO EACH COUNTRY.—The value of excess defense articles transferred under subsection (a) to an eligible drug producing or transit country in a fiscal year may not exceed $10,000,000.

"(f) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer will not have an adverse impact on the military readiness of the United States; and

"(4) transferring the excess defense articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(g) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.

"(j) NOTIFICATIONS TO CONGRESS.—

"(1) PROPOSED TRANSFERS.—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to be transferred.

"(2) PROCEDURES APPLICABLE TO NOTIFICATIONS.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(k) DEFINITIONS.—

"(1) ELIGIBLE DRUG PRODUCING OR TRANSIT COUNTRY.—For purposes of this section, the term 'eligible drug producing or transit country' means a country—

"(A) that is a major illicit drug producing country or a major drug-transit country;

"(B) that has a democratic government; and

"(C) whose security forces do not engage in a consistent pattern of gross violations of internationally recognized human rights; and

"(D) that is eligible to receive foreign military financing assistance at the time the excess defense articles are transferred.

"(2) EXCESS COAST GUARD PROPERTY.—For purposes of this section and sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard. For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.

"(3) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.

"(a) AUTHORITY TO TRANSFER NONLETHAL EXCESS DEFENSE ARTICLES AND SMALL ARMS.—The President may transfer eligible articles to an eligible country, an international organization, or a private voluntary organization for the purpose of protecting and maintaining wildlife habitats and developing sound wildlife management and plant conservation programs.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer eligible articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the President determines that the transfer will not have an adverse impact on the military readiness of the United States; and

"(4) transferring the eligible articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) TERMS OF TRANSFERS.—Eligible articles may be transferred under this section without cost to the recipient country or organization.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) does not apply with respect to transfers of eligible articles under this section.

"(e) TRANSPORTATION.—The President is authorized to transport eligible articles made available under this section without charge on a space available basis.

"(f) NOTIFICATIONS TO CONGRESS.—

"(1) DESIGNATION OF ADDITIONAL ELIGIBLE COUNTRIES.—The President shall notify the relevant congressional committees at least 15 days before designating a country as an eligible country pursuant to subsection (g)(2)(A)(iii)(II).

"(2) PROPOSED TRANSFERS.—The President may not transfer eligible articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the eligible articles to be transferred.

"(3) PROCEDURES APPLICABLE TO NOTIFICATIONS.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(g) DEFINITIONS.—

"(1) DEPARTMENT OF DEFENSE.—For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to excess property of the Coast Guard, to include the Coast Guard.

"(2) ELIGIBLE COUNTRY.—(A) For purposes of this section, the term 'eligible country' means a country—

"(i) for which foreign military financing assistance was justified for the fiscal year in which the transfer of eligible articles under this section is authorized;

"(ii) that is eligible to receive foreign military financing assistance at the time of the transfer; and

"(iii) that either—

"(I) is a grandfathered country, or

"(II) has been designated by the President as an eligible country for purposes of this section.

"(B) As used in subparagraph (A)(iii)(I), the term 'grandfathered country' means Botswana, Central African Republic, Cameroon, Kenya, Malawi, Tanzania, and Zimbabwe.

"(3) ELIGIBLE ARTICLES.—For purposes of this section, the term 'eligible articles' means—

"(A) nonlethal excess defense articles,

"(B) nonlethal excess property of the Coast Guard, and

"(C) small arms.

"(4) EXCESS DEFENSE ARTICLES.—For purposes of sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include eligible articles transferred under the authority of this section.

"(5) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2304. ANNUAL CEILING ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"The aggregate value of excess defense articles ordered by the President in any fiscal year for delivery under the authority of this chapter or the Defense Trade and Export Control Act may not exceed $250,000,000, excluding—

"(1) excess defense articles ordered for transfer under section 2301,

"(2) defense articles with respect to which the President submits a certification under section 36(b) of the Defense Trade and Export Control Act, and

"(3) ships and their onboard stores and supplies transferred in accordance with law.

"SEC. 2305. ANNUAL REPORTS ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles during the preceding fiscal year under section 2201, under section 2301, under section 2302, under section 2303, under section 2901, or under the Defense Trade and Export Control Act (respectively), disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"SEC. 2401. AUTHORIZED FUNCTIONS.

"(a) IN GENERAL.—In order to carry out responsibilities for the management of international security assistance and sales programs conducted under chapter 2, chapter 3, and chapter 5 and under the Defense Trade and Export Control Act, the President may assign members of the Armed Forces to a foreign country to perform one or more of the following functions:

"(1) Equipment and services case management.

"(2) Training management.

"(3) Program monitoring.

"(4) Evaluation and planning of the host government's military capabilities and requirements.

"(5) Administrative support.

"(6) Promoting rationalization, standardization, interoperability, and other defense cooperation measures.

"(7) Liaison functions exclusive of advisory and training assistance.

"(b) ADVISORY AND TRAINING ASSISTANCE.—Advisory and training assistance conducted by members of the Armed Forces assigned under this chapter shall be kept to an absolute minimum. Advising and training assistance in countries to which members of the Armed Forces are assigned under this chapter should be provided primarily by other personnel who are not assigned under this chapter and who are detailed for limited periods to perform specific tasks.

"(c) PROGRAM MONITORING.—At least one member of the Armed Forces assigned to each country under this chapter shall be given responsibility primarily for monitoring the international security assistance and sales program in that country.

"SEC. 2402. LIMIT ON SIZE OF GROUPS.

"The total number of members of the Armed Forces assigned under this chapter to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the appropriate congressional committees are notified 30 days in advance of the introduction of the additional military personnel.

"SEC. 2403. COSTS.

"The entire costs (excluding salaries of members of the Armed Forces, other than the Coast Guard) of overseas management of international security assistance and sales programs under this chapter shall be charged to or reimbursed from funds made available to carry out chapter 2, other than any such costs which are either—

"(1) paid directly for such defense services under section 21(a) of the Defense Trade and Export Control Act, or

"(2) reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

"SEC. 2404. ROLE OF CHIEF OF MISSION.

"Members of the Armed Forces assigned to a foreign country under this chapter shall serve under the direction and supervision of the chief of the United States diplomatic mission to that country.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 2501. GENERAL AUTHORITY.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military education and training to military and related civilian personnel of foreign countries. Such civilian personnel may include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators, if the military education and training would—

"(1) foster greater respect for and understanding of the principle of civilian control of the military;

"(2) improve military justice systems and procedures in accordance with internationally recognized human rights;

"(3) contribute to responsible defense resource management; or

"(4) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts.

"(b) FURNISHING OF ASSISTANCE.—Training and education under this chapter may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

"SEC. 2502. TERMS OF ASSISTANCE.

"(a) GRANT ASSISTANCE.—Military education and training under this chapter shall be furnished on a grant basis.

"(b) ASSISTANCE ON CREDIT TERMS.—Whenever feasible military education and training shall be provided on credit terms under chapter 2.

"SEC. 2503. EXCHANGE TRAINING.

"In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than Service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 7201(d)), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

"SEC. 2504. TRAINING IN MARITIME SKILLS.

"The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

"SEC. 2505. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $52,500,000 for fiscal year 1992 and $52,500,000 for fiscal year 1993.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"SEC. 2601. GENERAL AUTHORITY.

"(a) IN GENERAL.—The President is authorized to furnish assistance to foreign countries and international organizations for peacekeeping operations and activities and related programs.

"(b) REIMBURSEMENT OF DOD.—Assistance under this chapter may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945. Such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specified in authorizing legislation.

"(c) RELATION TO OTHER PROVISIONS.—The authority provided by this chapter to furnish assistance for the purposes specified in subsection (a) is in addition to any other authority which may be available for those purposes. Assistance provided under this chapter may be made available notwithstanding any provision of law that restricts assistance to foreign countries.

"SEC. 2602. SPECIAL TRANSFER AND DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES.—If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may—

"(1) exercise the authority of section 6101 of this Act to transfer for use under this chapter funds available for economic support assistance without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and

"(2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services, of an aggregate value not to exceed $25,000,000 in any fiscal year, from the inventory and resources of any agency of the United States Government.

"(b) REIMBURSEMENT.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under this section.

"SEC. 2603. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

"SEC. 2604. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $28,000,000 for fiscal year 1992 and $28,000,000 for fiscal year 1993.

"CHAPTER 7—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"SEC. 2701. RESTRICTIONS ON STOCKPILING.

"(a) REMOVAL FROM STOCKPILING.—Defense articles in the inventory of the Department of Defense which are set aside, reserved, or in any way earmarked or intended for future use by any foreign country may not be made available to or for use by any foreign country unless—

"(1) such transfer is authorized under this Act or the Defense Trade and Export Control Act; and

"(2) the value of such transfer is charged against funds authorized under this Act or against any limitations which may be established by the Congress, as appropriate, for the fiscal period in which the defense articles are transferred.

"(b) VALUE.—

"(1) DEFINITION.—For purposes of subsection (a), 'value' means acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"(2) LIMITATION.—A defense article transferred from any stockpile which is made available to or for use by any foreign country may not be considered an excess defense article for the purpose of determining the value of that defense article.

"SEC. 2702. LOCATION OF STOCKPILES.

"(a) LIMITATION.—Except as provided in subsection (b), no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to stockpiles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the appropriate congressional committees in accordance with the procedures applicable to

reprogramming notifications under section 6304 of this Act.

"SEC. 2703. ADDITIONS TO WAR RESERVE STOCKS.

"(a) LIMITATION.—The value of additional defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount that is specified in legislation authorizing military assistance programs for that fiscal year.

"(b) AUTHORIZATION OF ADDITIONS.—The value of such additions to stockpiles in foreign countries shall not exceed $429,000,000 for fiscal year 1992 and shall not exceed $429,000,000 for fiscal year 1993.

"CHAPTER 8—INTERNATIONAL TERRORISM

"SEC. 2801. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED ASSISTANCE TO FOREIGN COUNTRIES.

"(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism which is provided by the United States Government.

"(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

"(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"SEC. 2802. CONSIDERATIONS IN PROVIDING ASSISTANCE.

"(a) TRANSNATIONAL THREAT OF TERRORISM.—Terrorism continues to pose a danger to a stable world order, and to endanger the ability of the people of the United States and the world to live and travel in peace and safety.

"(b) CONSIDERATIONS IN PROVIDING ASSISTANCE.—In providing assistance under this Act, the President should take into account the cooperation provided by other countries in connection with matters related to international terrorism, including such matters as whether a country grants sanctuary from prosecution to individuals or groups that have engaged in international terrorism.

"SEC. 2803. ANTITERRORISM ASSISTANCE.

"(a) PURPOSES OF ASSISTANCE.—In helping meet the transnational threat posed by terrorism, activities conducted under this chapter shall be designed—

"(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

"(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

"(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to the provisions of this chapter, the President is authorized to furnish assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

"SEC. 2804. AUTHORITIES AND LIMITATIONS.

"(a) GRANT ASSISTANCE.—

"(1) AUTHORIZATION.—Services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 7601(d)(9)) pursuant to section 7201 of this Act from funds available to carry out this chapter.

"(2) EXEMPTION FROM PROHIBITION ON LAW ENFORCEMENT ASSISTANCE.—Section 6202 (relating to the prohibition on assistance for law enforcement forces) does not apply with respect to assistance provided under paragraph (1).

"(b) REIMBURSED ASSISTANCE.—

"(1) AUTHORIZATION.—Whenever the President considers it to be consistent with and in furtherance of the purposes of this chapter any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 7601(d)(9)) in United States dollars by the foreign country.

"(2) PROHIBITION ON USE OF FOREIGN MILITARY FINANCING FOR REPAYMENT.—Foreign military financing assistance may not be used for payments under paragraph (1).

"(3) CREDITING OF COLLECTIONS.—Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

"(c) HUMAN RIGHTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall be consulted in the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

"(d) LIMITATIONS.—

"(1) TRAINING SERVICES.—Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the appropriate congressional committees are notified in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) ADVICE OUTSIDE THE UNITED STATES.—Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3) TRAINING BY STATE DEPARTMENT PERSONNEL.—(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.

"(4) MUNITIONS ITEMS.—(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they—

"(I) are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus, and armor plating), and

"(II) are directly related to antiterrorism training under this chapter;

"(ii) the recipient country is not prohibited by law from receiving foreign military financing assistance or international military education and training; and

"(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the appropriate congressional committees of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(B) No shock batons or similar devices may be provided under this chapter.

"(5) EQUIPMENT TRANSFERS.—The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(6) ASSISTANCE RELATING TO INTELLIGENCE ACTIVITIES.—Assistance under this chapter shall not include activities authorized by the National Security Act of 1947 (50 U.S.C. 401 and following), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a and following), and Executive Order 12333, other than limited training in the organization of intelligence for antiterrorism purposes under the provisions of this chapter.

"(7) PERSONNEL COMPENSATION OR BENEFITS.—Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

"(e) INFORMATION EXCHANGE ACTIVITIES.—This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

"SEC. 2805. REPORTS TO CONGRESS.

"(a) NOTICE TO CONGRESS.—Not less than 30 days before providing assistance to a foreign country under this chapter, the President

shall transmit to the appropriate congressional committees a written notification which specifies—

"(1) the country to which such assistance is to be provided;

"(2) the type and value of the assistance to be provided;

"(3) the terms and duration of assistance; and

"(4) an explanation of how the proposed assistance will further the objectives of this chapter to assist eligible foreign countries in deterring terrorism.

"(b) CONGRESSIONAL PRESENTATION DOCUMENTS.—The annual congressional presentation documents shall include—

"(1) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programmed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year;

"(2) with respect to each country listed pursuant to paragraph (1) and for each such fiscal year, a description of the assistance under this chapter furnished, programmed, or proposed, including—

"(A) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country that received or will receive training under this chapter;

"(B) the types of equipment or other commodities which were or will be furnished under this chapter; and

"(C) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis; and

"(3) a description of the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.

"SEC. 2806. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and references to title II shall be deemed to exclude reference to this chapter.

"SEC. 2807. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $15,000,000 for fiscal year 1992 and $15,000,000 for fiscal year 1993.

"SEC. 2808. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

"(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism;

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under this chapter, any other chapter of this title (including chapter 6), chapter 3 of title I (relating to economic support assistance), or the Export-Import Bank Act of 1945; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under this Act which is also prohibited by section 40 of the Defense Trade and Export Control Act.

"CHAPTER 9—OTHER PROVISIONS

"Subchapter A—Special Drawdown Authorities

"SEC. 2901. SPECIAL DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES REQUIRING MILITARY ASSISTANCE.—If the President determines and reports to the Congress that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization, and

"(2) the emergency requirement cannot be met under the authority of the Defense Trade and Export Control Act or any other law except this section,

the President may direct, for purposes of providing grant assistance under the authorities of chapter 2 or chapter 5, the drawdown of defense articles from the stocks of the Department of Defense or the drawdown of defense services of the Department of Defense.

"(b) SPECIAL CIRCUMSTANCES REQUIRING NONMILITARY ASSISTANCE.—If the President determines that it is in the national interest of the United States to do so, the President may direct the drawdown of commodities from the stocks of the Department of Defense or the drawdown of defense services of the Department of Defense for purposes of providing—

"(1) international narcotics control assistance;

"(2) international disaster assistance; or

"(3) assistance under the authorities of the Migration and Refugee Assistance Act of 1962.

"(c) AGGREGATE ANNUAL CEILINGS.—The aggregate value of—

"(1) defense articles and defense services made available under subsection (a) may not exceed $100,000,000 in any fiscal year; and

"(2) commodities and services made available under subsection (b) may not exceed $75,000,000 in any fiscal year.

"(d) NOTICE TO CONGRESS.—

"(1) PRIOR NOTICE.—The President may exercise the authority of this section upon providing notification to the appropriate congressional committees. In the case of drawdowns authorized under paragraphs (1) and (3) of subsection (b), notification shall be provided 15 days in advance, in accordance with procedures applicable to reprogramming notifications under section 6304.

"(2) CONTINUING INFORMATION.—The President shall keep the Congress fully and currently informed of all defense articles, defense services, commodities, and services provided under this section.

"(e) NONAPPLICABILITY OF REQUIREMENT FOR REIMBURSEMENT FROM EXISTING ASSISTANCE FUNDS.—Section 7201(d) does not apply with respect to defense articles, defense services, commodities, or services made available under this section.

"(f) MILITARY EDUCATION AND TRAINING.—For purposes of this section, the terms 'defense services' and 'services' shall be deemed to include military education and training.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, commodities, and services provided under this section.

"Subchapter B—Exercise and Coordination of Functions

"SEC. 2921. RESPONSIBILITIES OF THE SECRETARY OF STATE.

"Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the assistance programs authorized by this title to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby. The Secretary's responsibilities under this section include decisions of whether there will be a military assistance program for a country and the amount of such program.

"SEC. 2922. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.

"(a) GENERAL RESPONSIBILITIES.—In the case of assistance under this title, the Secretary of Defense shall have primary responsibility for—

"(1) the determination of military end-item requirements;

"(2) the procurement of military equipment in a manner which permits its integration with service programs;

"(3) the supervision of end-item use by the recipient countries;

"(4) the supervision of the training of foreign military and related civilian personnel;

"(5) the movement and delivery of military end-items; and

"(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance.

"(b) PROCUREMENT, DELIVERY, AND ALLOCATION OF DEFENSE ARTICLES AND SERVICES.—The Secretary of Defense shall be responsible for establishing priorities in the procurement, delivery, and allocation of defense articles and defense services.

"SEC. 2923. SECURITY ASSISTANCE COORDINATION.

"(a) SECURITY ASSISTANCE COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

"(b) MILITARY ASSISTANCE RECOMMENDATIONS.—The chief of the United States diplomatic mission to a country shall ensure that recommendations pertaining to military assistance programs for that country are coordinated with political and economic considerations.

"Subchapter C—Miscellaneous

"SEC. 2941. PERSONNEL LIMITED TO NONCOMBATANT DUTIES.

"Personnel providing defense services under chapter 2, performing functions under chapter 4, or providing military education and training under chapter 5 may not perform duties of a combatant nature (including any duty related to training and advising that may engage United States personnel in combat activities) outside the United States in connection with the performance of their duties under those chapters.".

SEC. 202. CONFORMING AMENDMENTS.

The Arms Export Control Act is amended as follows:

(1) Section 2(b) is amended—

(A) by striking out "financing," both places it appears; and

(B) by striking out "or financing for" in paragraph (1).

(2) Section 3(c) is amended—

(A) in paragraph (1), by striking out "(1)(A) No" and all that follows through "(B) No" and inserting in lieu thereof "(1) No";

(B) in paragraph (1), as amended by subparagraph (A), by striking out "this Act, or any predecessor Act," and inserting in lieu thereof ", through sale, financing, or otherwise, under this Act or the Foreign Assistance Act of 1961 (or under any predecessor military sales or foreign assistance legislation)";

(C) in paragraph (3)(A), by striking out "subparagraph (A)" and all that follows through "such paragraphs," and inserting in lieu thereof "paragraph (1)"; and

(D) in paragraph (3)(B), by striking out "subparagraph (B) of".

(3) Section 3 is amended—

(A) in subsection (d), by striking out "section 505(a)(1) or 505(a)(4)" and inserting in lieu thereof "section 2203(a)(1)"; and

(B) in subsection (e), by striking out "section 505" and inserting in lieu thereof "section 2203(a)(1)".

(4) Section 5(a) is amended by striking out ", and no credits (including participations in credits) or guaranties extended to or for" and inserting in lieu thereof "to".

(5) Section 6 is amended—

(A) by striking out ", no credits or guarantees may be extended,"; and

(B) by inserting "and no foreign military financing assistance may be furnished under the Foreign Assistance Act of 1961" after "this Act".

(6) Section 21 is amended—

(A) in subsection (c)(1), by striking out "sold"; and

(B) in subsection (e)(1)(B), by striking out "either from" and all that follows through "nonrepayable basis under" and inserting in lieu thereof "from either (i) funds made available on a grant basis under chapter 2 of title II of the Foreign Assistance Act of 1961, or (ii) funds which, prior to the effective date specified in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or were made available on a nonrepayment basis under the former authority of".

(7) Section 23 is repealed.

(8) Section 24 is amended—

(A) by amending the section caption to read "PROVISIONS RELATING TO FORMER CREDIT AND GUARANTY AUTHORITIES";

(B) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "To the extent necessary to carry out the provisions under the heading "FOREIGN MILITARY SALES DEBT REFORM" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), the";

(C) in subsection (b) by inserting "before the effective date specified in section 1101 of the International Cooperation Act of 1991" after "section 23"; and

(D) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The single reserve established under this section for the payment of claims under guaranties issued under the authority of this section may be referred to as the 'Foreign Military Loan Liquidating Account'.

"(d) Any guaranties issued under the authority of this section are backed by the full faith and credit of the United States.".

(9) Section 25(a) is amended—

(A) in paragraph (5)(A) by striking out "military education" and all that follows through "guarantees," and inserting in lieu thereof "and assistance under chapter 2 or chapter 5 of title II of the Foreign Assistance Act of 1961,";

(B) in paragraph (5)(B) by striking out "credits or guaranties under this Act" and inserting in lieu thereof "financing under chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in paragraph (11)—

(i) by striking out "the Arms Export Control Act" and inserting in lieu thereof "section 23 or 24 of this Act"; and

(ii) by inserting before the semicolon at the end of the paragraph the following: ", and the status of each extension of credit for the procurement of defense articles or defense services under chapter 2 of title II of the Foreign Assistance Act of 1961 with respect to which there remains outstanding any unpaid obligation or potential liability".

(10) Section 25(d), as added by 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out "this Act or under section 503(a)(3)" and inserting in lieu thereof "chapter 2 of title II".

(11) Section 31 is repealed.

(12) Section 36(a) is amended—

(A) in paragraph (7), by striking out "part" and inserting in lieu thereof "title"; and

(B) in paragraph (10), by striking out "505(a)(1)(B)" and inserting in lieu thereof "2203(a)(1)(A)".

(13) Section 37 is amended—

(A) in the section caption by striking out "RELATING TO FOREIGN MILITARY SALES CREDITS";

(B) in subsection (a), by striking out "section 23" and inserting in lieu thereof "the former authority of section 23 or under the authority of chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in subsection (b), by inserting "the former authority of" after "extended pursuant to".

(14) Section 40(a)(3) is amended by striking out "505(a)" and inserting in lieu thereof "2203(a)".

(15) Section 42 is amended—

(A) in subsection (a) by striking out ", but subject to subsection (b) of this section," in the first sentence and inserting in lieu thereof a semicolon;

(B) by repealing subsections (b) and (c) and redesignating subsections (d) through (f) as subsections (b) through (d), respectively; and

(C) in subsection (b)(1), as so redesignated, by striking out "and guaranties under sections 21, 22, 23, 24," and inserting in lieu thereof "under sections 21, 22,".

SEC. 203. TRANSITION RULE CONCERNING DISPOSITION OF CERTAIN PREVIOUSLY PROVIDED MILITARY EQUIPMENT.

To the extent provided in appropriations Acts, the President may waive requirements imposed pursuant to sections 505 (a)(4) and (f) of the Foreign Assistance Act of 1961, as in effect before the effective date specified in section 1101 of this Act, with respect to defense articles or related training or other defense services furnished before that date.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

SEC. 221. ARMS TRANSFER POLICY.

(a) ESTABLISHMENT OF NEW POLICY.—The Arms Export Control Act is amended by striking out the first section and section 1 and inserting in lieu of section 1 the following:

"SECTION 1. SHORT TITLE AND STATEMENT OF UNITED STATES ARMS TRANSFER POLICY.

"(a) SHORT TITLE.—This Act may be cited as the 'Defense Trade and Export Control Act'.

"(b) POLICY OBJECTIVES.—The policy of the United States in implementing the authorities of this Act relating to sales and other transfers of defense articles, defense services, and design and construction services shall be based upon the following objectives:

"(1) Ensuring that such transfers are fully consistent with the foreign and national security policies of the United States.

"(2) Ensuring that such transfers directly enhance or achieve specific national defense requirements of the recipient country or objectives of mutual concern and contribute directly to the common defense.

"(3) Promoting defense cooperation through the transfer of United States major defense equipment and other defense articles and defense services, including through licensed production and coproduction.

"(4) Promoting rationalization, standardization, and interoperability of foreign military forces with the Armed Forces of the United States.

"(5) Contributing to the deterrence of aggression and promoting regional security by enabling recipient countries to negotiate peaceful solutions to conflicts with confidence.

"(6) Enabling recipient countries to participate in regional or collective arrangements or other measures consistent with the Charter of the United Nations.

"(7) Enabling recipient countries to participate in collective measures requested by the United Nations.

"(8) Complementing United States efforts to restrain and control the international transfer of defense articles and defense serv-

ices and to encourage international conventional arms control arrangements.

"(c) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services.".

(b) CONFORMING AMENDMENTS RELATING TO PURPOSES FOR WHICH DEFENSE ARTICLES MAY BE USED.—

(1) REPEAL OF EXISTING PURPOSE SECTION.—Section 4 of that Act is repealed.

(2) INELIGIBILITY.—Section 3(c) of that Act is amended—

(A) in paragraph (1), as amended by section 202 of this Act, by striking out "authorized under section 4" and inserting in lieu thereof "specified in paragraph (5)"; and

(B) by adding at the end the following:

"(5) The purposes referred to in paragraph (1) are the following:

"(A) Legitimate self-defense.

"(B) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(C) Internal security.

"(D) Construction of public works, or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.".

(c) CONFORMING REFERENCES TO ACT.—Unless it would be inconsistent with the context in which the reference appears, any reference in any law to the Arms Export Control Act shall be deemed to be a reference to the Defense Trade and Export Control Act (as so redesignated by this section) and any reference in any law to the Defense Trade and Export Control Act shall be deemed to include the Arms Export Control Act.

SEC. 222. IMPROVED ACCOUNTING FOR FOREIGN MILITARY SALES.

Section 37 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(d) FMS FINANCIAL MANAGEMENT.—The President shall take the following steps to address the financial management problems that exist with respect to payments on account of sales under this Act:

"(1) NEW TRUST FUND.—Establish a new account for the deposit of funds with respect to any sale of defense articles, defense services, or design and construction services under section 21 or section 22 of this Act entered into after September 30, 1992, in order to isolate financial transactions relating to new sales from those relating to previous sales.

"(2) CENTRALIZED ACCOUNTING SYSTEM.—Establish a centralized accounting system with respect to payments received, payments made, and performance pursuant to payments with respect to sales under this Act. This system shall have the necessary access to the relevant accounting and billing systems maintained by each of the military services with respect to such sales. This centralized accounting system shall be fully operational not later than September 30, 1992.

"(3) COORDINATION OF ACCOUNTING AND BILLING SYSTEMS.—Improve coordination and uniformity among the accounting and billing systems maintained by each of the military services with respect to such sales.

"(4) RECONCILIATION OF FMS CASES.—Reconcile the discrepancies between reported disbursements and reported performance with respect to those sales under this Act which are still being implemented and with respect to those sales under this Act which have been completed.".

SEC. 223. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 4 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"SEC. 48. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961, or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, and the Republic of Korea shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 47 of that Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(9) 'major non-NATO ally' means a country which is designated in accordance with section 48 as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961.".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of that Act is repealed.

(B) Section 65(d) of that Act is amended—

(i) by striking out "or major non-NATO", and

(ii) by striking out "or a" and all that follows through "Code".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of that Act is amended in the first sentence by striking out "similar agreements" and all that follows through "other countries" and inserting in lieu thereof "similar agreements with countries".

SEC. 224. CERTIFICATION THRESHOLDS.

(a) INCREASE IN DOLLAR THRESHOLDS.—The Defense Trade and Export Control Act is amended—

(1) in section 3(d)—

(A) in paragraphs (1) and (3), by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) in paragraphs (1) and (3), by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000";

(2) in section 36—

(A) in subsections (b)(1), (b)(5)(C), and (c), by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) in subsections (b)(1), (b)(5)(C), and (c), by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000"; and

(C) in subsections (b)(1) and (b)(5)(C), by striking out "200,000,000" and inserting in lieu thereof "$300,000,000"; and

(3) in section 63—

(A) by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to certifications required to be submitted on or after the effective date specified in section 1101 of this Act.

SEC. 225. STANDARDIZING CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Defense Trade and Export Control Act is amended—

(1) in subparagraph (A), by striking out ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking out "law" and inserting in lieu thereof "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of that Act is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking out "at least 30 calendar days", and

(B) by striking out "report" and inserting in lieu thereof "certification"; and

(3) by striking out the last sentence and inserting in lieu thereof the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand (if this clause is applicable to New Zealand pursuant to paragraph (5) of this subsection), and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case

may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) DESIGNATION REQUIRED FOR NEW ZEALAND TO RECEIVE ADDITIONAL PREFERENTIAL CONGRESSIONAL REVIEW.—Section 3(d) of that Act is further amended by adding at the end the following:

"(5) Clause (i) of paragraph (3)(A) of this subsection, section 36(c)(2)(A), section 36(d)(2)(A), and section 62(c)(1) apply with respect to New Zealand only if the President has reported to the Congress that he has designated New Zealand as being subject to the shorter congressional review period provided for in those provisions because—

"(A) New Zealand is a member of a military alliance with the United States,

"(B) applying the shorter review period would encourage New Zealand to remove obstacles to entering a military alliance with the United States, or

"(C) to do so would be in the national security interest of the United States.".

(d) COMMERCIAL SALES.—Section 36(c)(2) of that Act is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)), shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(e) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of that Act is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking out "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization, Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(f) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of that Act is amended—

(A) in subsection (a) by striking out "Not less than 30 days before" and inserting in lieu thereof "Before";

(B) in subsection (b)—

(i) by striking out "determines, and immediately reports to the Congress" and inserting in lieu thereof "states in his certification,"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization, Australia, Japan, or New Zealand (if this paragraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL VETO.—Section 63(a) of that Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking out paragraph (2).

(g) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the effective date specified in section 1101 of this Act.

SEC. 226. FOREIGN AVAILABILITY.

Section 36 of the Defense Trade and Export Control Act is amended—

(1) in subsection (b)(1)—

(A) by adding after the first sentence the following: "Such certifications shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services are available from other countries."; and

(B) by striking out subparagraph (K) and by redesignating subparagraphs (L) through (P) as subparagraphs (K) through (O), respectively; and

(2) in subsection (c)(1), by adding after the first sentence the following: "Each such certification shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles or defense services are available from other countries.".

SEC. 227. ECONOMIC IMPACT ON UNITED STATES OF ARMS SALES.

(a) CONGRESSIONAL PRESENTATION MATERIALS.—Section 25(a) of the Defense Trade and Export Control Act is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

"(11) an analysis of the economic benefits or disadvantages to the United States of sales and licensed commercial exports under this Act during the preceding fiscal year;".

(b) ARMS SALE NOTIFICATIONS.—Section 36(b)(1) of that Act, as amended by section 226 of this Act, is further amended—

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

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

(3) by inserting after subparagraph (O) the following:

"(P) an analysis of the economic benefits or disadvantages to the United States of the proposed sale.".

SEC. 228. COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Defense Trade and Export Control Act is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (11) the following:

"(12) a report on all concluded government-to-government agreements governing foreign coproduction of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this paragraph, which shall include—

"(A) the identity of the foreign countries or international organizations involved;

"(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

"(C) a description of any restrictions on third party transfers of the foreign-manufactured articles; and

"(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the coproducing country, a description of alternative measures and controls incorporated in the coproduction program to ensure compliance with restrictions in the agreement on pro-

duction quantities and third party transfers.".

(b) SANCTIONS FOR UNAUTHORIZED THIRD COUNTRY TRANSFERS OF COPRODUCED DEFENSE ARTICLES.—The Defense Trade and Export Control Act, as amended by section 202 of this Act, is amended by inserting the following new section 31 at the beginning of chapter 3:

"SEC. 31. UNAUTHORIZED THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES COPRODUCED OR MANUFACTURED UNDER LICENSE ABROAD.

"(a) WHEN SANCTIONS REQUIRED.—The sanctions described in subsection (b) shall be applied as hereinafter provided if—

"(1) the foreign party to a coproduction agreement violates the restrictions in that agreement regarding unauthorized third country or third party transfers or other unauthorized dispositions of—

"(A) defense articles produced under that agreement, or

"(B) technical data or defense services provided under that agreement, and

"(2) that violation is substantial (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved).

"(b) DETERMINATION REQUIRED.—The sanctions described in this section shall apply if—

"(1) the President so determines and states in writing to the Congress, or

"(2) the Congress so determines by joint resolution.

"(c) SANCTIONS TO BE APPLIED.—If a determination is made under subsection (b) with respect to a foreign party to a coproduction agreement—

"(1) the authority or license to produce defense articles abroad that is granted by all coproduction agreements to which that foreign party is a party shall be suspended during the sanction period; and

"(2) licenses may not be issued and approval may not be granted under section 38 with respect to that foreign party during the sanction period.

"(d) SANCTION PERIOD.—As used in this section, the term 'sanction period' means the period—

"(1) beginning on the date on which the President notifies the Congress that he has made a determination pursuant to subsection (b)(1) or on which the Congress enacts a joint resolution pursuant to subsection (b)(2); and

"(2) ending on the date on which the President reports to the Congress that—

"(A) the violation has ceased; and

"(B) the foreign party has given assurances satisfactory to the President that such a violation will not recur.

"(e) REPORT TO CONGRESS.—The President shall report to the Congress promptly on the receipt of information a violation described in subsection (a) may have occurred.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'coproduction agreement' means an arrangement for foreign production of United States origin defense articles—

"(A) that is authorized or approved by a memorandum of understanding or a memorandum of agreement between a foreign government and the United States Government, or

"(B) that is pursuant to a manufacturing license agreement approved under section 38 of this Act; and

"(2) the term 'foreign party' means a foreign government or foreign business entity that is granted authority or license to produce defense articles abroad by a coproduction agreement.

"(g) EFFECTIVE DATE.—This section does not apply to violations occurring before the effective date of this section, but does apply with respect to all coproduction agreements without regard to whether they were entered into before or after that date.".

SEC. 229. ENFORCEMENT OF ARMS EXPORT LICENSING REQUIREMENTS.

(a) VIOLATIONS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—

(1) DISQUALIFICATION AND FORFEITURE.—Section 38 of that Act is amended by inserting after subsection (c) the following:

"(d)(1) No contract between a foreign government and a person convicted or debarred for a violation of this section or section 39, or any rule or regulation issued under either section, may be approved for financing under chapter 2 of title II of the Foreign Assistance Act of 1961 during the 12 months following the date of such conviction or debarment.

"(2)(A) Any person who is convicted for a violation of this section or section 39, or any rule or regulation issued under either section, shall (in addition to any other penalty) forfeit to the United States—

"(i) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was the subject of the violation;

"(ii) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was used in—

"(I) the export or import or attempt to export or import, or

"(II) the contribution, gift, commission, or fee that was paid or offered or agreed to be paid,

that was the subject of the violation; and

"(iii) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(B) The procedures in any forfeiture under this paragraph, and the duties and authorities of the courts of the United States and the Attorney General with respect to any forfeiture action under this paragraph or with respect to any property that may be subject to forfeiture under this paragraph, shall be governed by section 1963 of title 18, United States Code. Any new budget authority provided by this subparagraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(2) EFFECTIVE DATE.—Subsection (d) of section 38 of that Act, as enacted by paragraph (1) of this subsection, shall take effect on the date of enactment of this Act or October 1, 1991 (whichever is later), and applies—

(A) in the case of paragraph (1) of subsection (d), with respect to convictions or debarments occurring on or after the effective date of that subsection; and

(B) in the case of paragraph (2) of subsection (d), with respect to convictions based on conduct occurring on or after the effective date of that subsection.

(3) CONFORMING AMENDMENT.—(A) Section 38(e) of that Act is amended by striking out "(e), and (g)" and inserting in lieu thereof "and (e)".

(B) The amendment made by subparagraph (A) does not apply with respect to convictions based on conduct occurring before the date specified in paragraph (2)(B).

(b) MUNITIONS CONTROL ENFORCEMENT PROCEDURES.—Section 38(g) of the Defense Trade and Export Control Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking out "are the subject of an indictment for, or have been convicted of," and inserting in lieu thereof "have been convicted of"; and

(B) in subparagraph (B), by striking out "are the subject of an indictment or";

(2) in paragraph (3)—

(A) by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) at the end of the first sentence, by striking out "may disapprove the application" and inserting in lieu thereof "should disapprove the application if doing so is necessary to further law enforcement objectives or otherwise serve the national interest";

(3) in paragraph (4), by inserting before the period at the end "or that foreign policy or national security considerations justify the issuance of the license to that person";

(4) in paragraph (5), by inserting "or international organization" after "foreign government"; and

(5) in paragraph (8)—

(A) by inserting "within 60 days" after "shall"; and

(B) by inserting before the period at the end ", and to assist with the processing of registration statements".

SEC. 230. BIENNIAL REVIEW OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

Section 38(f) of the Defense Trade and Export Control Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Not later than one year after the date of enactment of the International Cooperation Act of 1991 and at least once every 2 years thereafter, the President shall review the regulations issued to carry out this section, including the items listed on the United States Munitions List, for the purpose of determining what changes in those regulations are appropriate, including determining what items, if any, no longer warrant export controls under this section. Based on each such review, the President shall revise those regulations as necessary and shall publish a revised compilation of those regulations.".

SEC. 231. FAIR PRICING.

(a) RECOUPMENT OF NONRECURRING COSTS.—Section 21(e) of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(4) To the extent provided in appropriations Acts, charges for defense articles that are not major defense equipment that are sold under this Act or licensed or approved for export under section 38 of this Act shall not include any nonrecurring costs of research on or development or production of those articles.".

(b) EFFECTIVE DATE.—Paragraph (4) of section 21(e) of the Defense Trade and Export Control Act (as added by subsection (a) of this section) applies with respect to defense articles sold on or after the effective date specified in section 1101 of this Act.

SEC. 232. CONTRACT ADMINISTRATIVE SERVICE CHARGES FOR NATO SUBSIDIARY BODIES.

Section 21(h)(1)(A) of the Defense Trade and Export Control Act is amended by inserting "or by a North Atlantic Treaty Organization subsidiary body on behalf of such foreign government" after "North Atlantic Treaty Organization".

SEC. 233. AMENDMENTS TO ELIMINATE OBSOLETE AND INCONSISTENT PROVISIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) Section 5(d) is repealed.

(2) Section 25 is amended—

(A) in subsection (a), by striking out "Except as provided in subsection (d), no" and inserting in lieu thereof "No";

(B) in subsection (a), as amended by section 227 of this Act, by repealing paragraphs (4), (7), and (9), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, by redesignating paragraph (8) as paragraph (6), and by redesignating paragraphs (10) through (13) as paragraphs (7) through (10), respectively; and

(C) by repealing subsection (d), as added by section 113 of the International Security and Development Cooperation Act of 1985.

(3) Sections 33, 34, and 35 are repealed.

(4) Section 36 is amended—

(A) in the text preceding paragraph (1) of subsection (a), by striking out "an unclassified report" and all that follows through "containing" and inserting in lieu thereof "a report, which shall be unclassified to the maximum extent possible, containing";

(B) in subsection (a), as amended by section 228 of this Act, by striking out paragraphs (3), (5), and (6), by redesignating paragraph (4) as paragraph (3) and by redesignating paragraphs (7) through (12) as paragraphs (4) through (9), respectively; and

(C) in subsection (b)(1), by striking out "(9)" and "(8)" and inserting in lieu thereof "(6)" and "(5)", respectively.

(5) Sections 38(b)(3) and 41 are repealed.

(6) Sections 44 and 45 are amended—

(A) by repealing all of section 45 except the last sentence;

(B) by amending that sentence by striking out "Except for the laws specified in section 44, no" and inserting in lieu thereof "No"; and

(C) by inserting that sentence at the end of section 44.

(7) Section 46 is repealed.

SEC. 234. TECHNICAL CORRECTIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) CORRECTION OF CROSS REFERENCES TO INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—(A) Section 3(a) is amended in the second sentence following paragraph (4)—

(i) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(ii) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(B) Section 36(d) is amended by striking out "combat" and inserting in lieu thereof "military".

(2) CLERICAL ERRORS IN 1985 AUTHORIZATION ACT.—Subsection (d) of section 25, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

CHAPTER 3—OTHER PROVISIONS

SEC. 241. DEPLETED URANIUM SHELLS.

(a) PROHIBITION.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells, or any comparable antitank shells containing a depleted uranium penetrating component, to any country other than—

(1) a country which is a member of the North Atlantic Treaty Organization; and

(2) a country which has been designated as a major non-NATO ally (as defined in section 47(9) of the Defense Trade and Export Control Act).

(b) EXCEPTION.—Subsection (a) shall not apply if the President determines that its application is not in the national security interest of the United States.

SEC. 242. ARMS TRANSFERS RESTRAINT POLICY FOR THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) FINDINGS.—The Congress finds that—

(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are vital to the welfare of the international economy and to the national security interests of the United States;

(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, cooperative verification measures, communications measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are necessary to implement an effective multilateral arms transfer and control regime; and

(11) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council.

(b) UNITED STATES POLICY REGARDING ARMS TRANSFERS TO THE MIDDLE EAST AND PERSIAN GULF REGION.—Accordingly, it shall be the policy of the United States to—

(1) only transfer defense articles and defense services to those nations of the Middle East and Persian Gulf region that have agreed that such articles and services will be used only for the purposes specified in section 3(c)(5) of the Defense Trade and Export Control Act (as amended by section 221(b) of this Act) and will not be used for military aggression or to coerce or intimidate other nations;

(2) only transfer defense articles and defense services to nations of the Middle East and Persian Gulf region after the United States has determined that such transfers will not destabilize the military balance of power within the region or contribute to the escalation of the arms race within the region;

(3) only transfer defense articles and defense services to those nations of the Middle East and Persian Gulf region that—

(A) have expressed willingness or are actively engaged in the process of negotiating peace agreements of the Arab-Israeli dispute through direct negotiations, and

(B) with respect to other conflicts in the region, have expressed willingness or are actively engaged in the process of negotiating peace agreements; and

(4) only transfer defense articles and defense services to nations in the Middle East and Persian Gulf region when such defense articles and defense services could credibly be used successfully for the defensive mission that is the justification for the transfer.

(c) CONVENING OF CONFERENCE TO NEGOTIATE A MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall seek negotiations among, and undertake good faith efforts to convene a conference of, the five permanent members of the United Nations Security Council and other nations as appropriate, including members of the North Atlantic Treaty Organization, former members of the Warsaw Pact, and other nations selling military equipment and services, to establish a comprehensive multilateral arms transfer and control regime with respect to the Middle East and Persian Gulf region. The purpose of this regime should be—

(1) to slow and limit the proliferation of conventional weapons in nations in the Middle East and Persian Gulf region;

(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons;

(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

(5) to promote regional arms control in the Middle East and Persian Gulf region.

(d) ARMS TRANSFER MORATORIUM.—

(1) ESTABLISHMENT.—Except as provided in paragraphs (2) and (3), the United States Government shall not agree to any transfers of major military equipment to any nation in the Middle East and Persian Gulf region. This moratorium is established to induce and encourage the other permanent members of the United Nations Security Council to join in this effort and also to induce and encourage other members of the North Atlantic Treaty Organization, former members of

the Warsaw Pact, and other major arms supplier nations to join in this effort.

(2) CONDITIONS FOR TERMINATION OF UNITED STATES MORATORIUM.—The requirement of paragraph (1) for a moratorium on United States arms transfers of major military equipment to the Middle East and Persian Gulf region shall cease to apply if the President submits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives—

(A) a report stating that the President has determined that there has been agreement by another major arms supplier nation on or after May 21, 1991, to transfer any major military equipment to any nation in the Middle East and Persian Gulf region; and

(B) the reports required by subsection (e)(1)(A) and (B).

(3) EMERGENCY TRANSFERS.—Paragraph (1) does not apply to any transfer of major military equipment that is a necessary, emergency response to major and sustained hostilities in the Middle East and Persian Gulf region or to an imminent threat of such hostilities.

(4) MAJOR MILITARY EQUIPMENT.—As used in this subsection, the term "major military equipment" means—

(A) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

(B) turbine-powered military aircraft;

(C) attack helicopters;

(D) main battle tanks;

(E) submarines and major naval surface combatants; and

(F) nuclear, biological, and chemical weapons.

(5) EXEMPTION OF REPLACEMENT EQUIPMENT.—Paragraph (1) and paragraph (2)(A) do not apply with respect to transfers which only involve the replacement on a one-for-one basis of equipment of comparable quality that has become inoperable after the date of enactment of this Act.

(e) REPORTS TO CONGRESS.—

(1) REPORT ON PLAN FOR MULTILATERAL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the following two reports:

(A) A report setting forth a United States plan for leading the world community in establishing a multilateral regime to restrict transfers of conventional and unconventional arms to the Middle East.

(B) A report analyzing the feasibility of an arms transfer and control regime among nations in the Middle East and the potential elements of such regime, including—

(i) the feasibility of opening for ratification or accession by nations of the Middle East and Persian Gulf region the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles (done at Washington on December 8, 1987), which bans all ground-launched ballistic and cruise missiles having ranges between 500 and 5,500 kilometers;

(ii) what techniques used in the Treaty on Conventional Armed Forces in Europe (done at Paris on November 19, 1990) can be usefully applied to regional arms control initiatives in the Middle East and Persian Gulf region; and

(iii) whether the "Open Skies" regime under consideration for countries in Europe and North America can be usefully applied to the Middle East and Persian Gulf region.

(2) REPORTS ON TRANSFERS AND REGIONAL BALANCE.—Not later than October 1 of each year, beginning in the first calendar year which begins after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report—

(A) documenting all transfers of conventional and unconventional arms to the Middle East over the previous year and the previous 5 years, including sources, types, and acquirers of weapons;

(B) analyzing the current military balance in the region, including the effect on the balance of transfers documented under subparagraph (A);

(C) describing the operation of any agreements comprising the multilateral arms transfer and control regime envisaged by this section; and

(D) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines the regime.

(f) EXISTING AGREEMENTS.—Subsections (b) and (d) do not apply with respect to transfers of defense articles or defense services pursuant to agreements entered into before May 21, 1991.

Mr. FASCELL. Mr. Chairman, as I have previously stated, H.R. 2508 represents the second serious attempt by the House of Representatives to rewrite the basic authorities and policy guidelines of both the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968. Our first attempt in this endeavor occurred during the 101st Congress where H.R. 2655, secured solid bipartisan in support of its passage by a vote of 314 to 101.

That bill, H.R. 2655, eliminated extraneous and obsolete provisions of existing law, while at the same time streamlining other aspects of existing law so as to increase both the efficiency and success of both the U.S. economic and security assistance programs, thereby stretching valuable but limited funding in the 150 account. At the same time, that bill maintained and enhanced congressional oversight of those programs through the preservation of existing provisions in present law, and the addition of new provisions that were aimed at strengthening not only policy but the law.

We are now at the point of our debate where we begin discussion of title II which governs the conduct and provision of U.S. security assistance, and which includes many of the provisions that were contained in H.R. 2655, as well as certain provisions requested by the administration, and the private sector, and new initiatives that were undertaken by the Committee on Foreign Affairs.

Specifically, title II establishes: the policy guidelines for U.S. military assistance programs; the structure of the U.S. Foreign Military Financing Program; the guidelines for the provisions of U.S. excess defense articles; the size and administration of U.S. military advisory groups; the continuation of the International Military Education and Training Program; the provision of U.S. contributions and participation in peacekeeping operations; U.S. policies on the stockpiling of defense articles in foreign countries; U.S. policies and programs to combat international terrorism; the policies of the U.S. Foreign Military Sales Program; and a new initiative for the implementation of a U.S. policy of restraint on arms sales and transfers to the nations of the Middle East and Persian Gulf region.

It is this last provision, that I intend to focus my remarks.

At the outset, let me say that this provision represents a basic consensus of opinion among the members of the Committee on Foreign Affairs in our effort to develop a realistic arms transfer restraint policy toward the Middle East and the Persian Gulf regions. One of the many lessons of Operations Desert Shield and Desert Storm must be that the business as usual approach of the 1980's toward arms sales and transfers to the Middle East and the Persian Gulf must not be repeated in the 1990's.

In this regard, this provision addresses not only the issue of United States, but global arms transfers to the Middle East and Persian Gulf region. This provision recommends an indefinite moratorium on U.S. sales and transfers of major defense equipment to accelerate the development of a multilateral arms transfer and control regime on major military equipment to nations in the Middle East and the Persian Gulf.

Clearly, no more pressing issue in international affairs exists than that of the current situation in the Middle East and the Persian Gulf. In this regard, we in Congress are often told by officials within the executive to merely follow the lead of the White House when it comes to the conduct of U.S. foreign affairs and U.S. foreign policy. We are told and informed to disregard our own roles and responsibilities as policymakers, and instead into accepting the so-called unerring judgment of the Executive when it comes to foreign policy and arms control in the Middle East and the Persian Gulf. We have been informed that the President's May 29 announcement is the best approach toward winning the peace, and securing greater arms control in the Middle East and the Persian Gulf. Therefore, Congress should go along in lockstep with the President's unerring judgment.

Winning the peace and stimulating a climate for greater arms control requires more patience, more resilience, more perseverance, and more creativity. Those traits—patience, resilience, perseverance, and creativity—are the long suits in the Congress.

It is the Congress that has the patience to explore problems thoroughly and attack them correctly. It is the Congress that has the resilience to keep trying to solve the problems that confront our domestic and international agendas. It is the Congress that has the perseverance to see a problem through to its thoughtful solution. It is the Congress that has been creative in proposing various arms and control concepts that have become arms control realities.

Thus the invitation to struggle that lies at the root of the Constitution between the congressional and the executive branches of government bring us to our differences of opinion on how to improve the climate for greater security, stability, peace, and prosperity in the Middle East and the Persian Gulf. While both the Congress and the executive branches share these goals, we have different approaches toward achieving them. We want a policy that says arms restraint now versus the business of arms sales as usual.

As a Democrat, and in a vote of individual conscience, I supported the President in his request to authorize the use of force in the Persian Gulf. I am grateful that that arduous task—the use of force—is now behind us, and I am grateful that this decision was made consistent with the provisions of the War Powers Resolution. I am, however, equally mindful that much more needs to be done in order to seize this moment in history and bring greater security, stability, peace and prosperity to all peoples in the Middle East and Persian Gulf regions.

To that end, I am encouraged by the President's commitment in sending Secretary of State Baker on his several peace missions to the Middle East. They have been steps in the right direction. I am also encouraged by the President's May 29 announcement in which he specified a series of proposals intended to curb the spread of nuclear, chemical and biological weapons in the Middle East and Persian Gulf, as well as the missiles that can deliver them. That too has been a step in the right direction.

The trouble with the President's steps, however well intentioned as they may be, is that they go in the right direction of stopping nuclear, biological, chemical, and missile proliferation but don't make a meaningful move toward slowing, curbing, and halting the proliferation of conventional weapons in a region of the world that has been in, on, or at the precipice of war for the last 43 years. Thus, the President is being creative in taking the initiative against the proliferation of unconventional weapons, but is business as usual regarding the proliferation of conventional weapons.

The Committee on Foreign Affairs has forged a consensus that stipulates that it is high time to stop the business as usual approach to solving the problem of peace in the Middle East and the Persian Gulf regions. We have decided that the business as usual approach in selling arms to everyone serves no ones interests. That is why the Foreign Affairs Committee policy recommendation clearly states that future conventional arms transfers to the Middle East and the Persian Gulf should be controlled by a multilateral restraint policy.

We have proposed something that is both simple and straightforward. We have proposed that just as the United States led a global military coalition against Iraq, that we lead a global arms suppliers coalition in not just selling everything we can, to anyone in the Middle East and the Persian Gulf just because they believe they just have to have it. We saw the results of that kind of global policy with Iraq. We in Congress are asking the President to join us in supporting this effort, just as he asked that we join him in supporting the authorization to use force against Iraq.

We are going one step further than the President went on May 29, and we are challenging others to follow. We're proposing to jump start the process of arms control in the Middle East and the Persian Gulf. At the same time, the committee proposal is realistic in that it allows the President the necessary authority to provide for the replacement of major military equipment, with equipment of comparable capability, on a one-for-one basis after such equipment becomes inoperable. The committee proposal also extends that same flexiblity to other major arms suppliers.

The committee proposal also provides the President with the flexibility to lift the moratorium at anytime after which the President has reported to Congress the following three items: First, that a major arms supplier nation has reached an agreement to transfer major military equipment to a nation in the Middle East or the Persian Gulf; second, the submission of a U.S. plan for leading the world community in establishing a multilateral arms transfer and control regime of both conventional and unconventional weapons to nations in the Middle East and the Persian Gulf region; and third, a report on the feasibility of implementing such a regime. In short, our position is based on the proven arms control and security principle that "we won't sell if you don't sell."

Finally, the committee proposal commits the United States to multilateral negotiations among the five permanent members of the U.N. Security Council and other principal suppliers in an effort to establish a multilateral arms transfer and control regime toward nations in the Middle East and the Persian Gulf regions.

While some executive branch may argue that the committee is tinkering at the edges of Presidential prerogative, and that current law is sufficient to bring arms control and peace to the Middle East and the Persian Gulf, the committee would respond that Congress does have the responsibility to help set policy guidelines and pass laws, and to seek the President's support from them. The committee proposal recognizes that arms transfers are an important tool and element of our foreign policy apparatus, but the committee proposal also states that we intend to set higher and more rigorous standards on U.S. transfers to the Middle East and the Persian Gulf.

We all know that congressional commitment and dedication to the cause of arms control is oftentimes ahead of the curve. This congressional commitment and dedication oftentimes brings a reluctant executive branch along to the point where it is willing to explore congressionally mandated arms control ideas. Nevertheless, we know that this process takes time.

It was the Congress that was and remains wary of the potential of an arms race in space that would be caused by U.S. testing of antisatellite weapons [Asat's]. To this end, it was Congress that mandated a suspension of the U.S. testing program—a unilateral moratorium if you will—that has resulted in a mutual, United States-Soviet commitment to refrain from such testing. As a result, we have avoided a costly and destabilizing arms race in space.

It was Congress that set the tone on present improvement of the status of the United States-Soviet posture on nuclear testing. It was the Congress that passed an amendment in the Senate, and a joint resolution in the House that called upon the President to submit the Threshold Test Ban [TTB] and Peaceful Nuclear Explosions [PNE] Treaties to the Senate for ratification, as well as to call upon the President to seek negotiations on the conclusions of a Comprehensive Test Ban Treaty [CTBT]. This effort was opposed by many in the executive branch but the fact remains today that the TTB and PNE Treaties have been ratified, and that the United States and the Soviet Union are exploring a step-by-step process toward a CTB, including a partial test ban amendment conference that took place in January of this year.

Finally, it was the Congress that opposed United States production of binary chemical munitions and urged the complete destruction of all United States and Soviet chemical munition stockpiles. Those initiatives were also questioned by many in the executive, including the President himself, when as Vice President on two occasions he cast his vote in order to break a tie in the Senate vote to allow binary production. Nevertheless, it was and is the President—in action recently taken—who has exerted great leadership and statesmanship in taking unilateral steps which have resulted in bilateral agreement to destroy all United States and Soviet chemical weapons. Today, the unilateral challenge that became a bilateral agreement enjoys the support of 19 countries which have joined the United States in this unilateral challenge. As this process is working for chemical arms control, it can also work for conventional arms control. So, we dare to challenge to do more for the cause of security, stability, peace, and prosperity for the peoples of the Middle East and Persian Gulf.

Our committee's proposal is intended to bring greater U.S. reason, vision, and leadership through congressional dedication and commitment to furthering the cause of arms control in the Middle East and the Persian Gulf. This jump start approach—this challenge to ourselves and others—is yet another example of our taking a major step in the right direction. It is a step in which we hope others will follow. It is a bold step that hopefully will lead to the furtherance of the peace process in one of the most, if not the most, troubling areas of the world.

It is a congressional response that certifies the necessity of continued U.S. leadership in seeking to bring about peace in the Middle East and the Persian Gulf in the years ahead. It is a congressional response to a daunting problem, that if given the chance, might work—to avoid another war in the Middle East.

It is the most lasting contribution to sustaining the victory celebration that some 1 million Americans expressed this past weekend in our Nation's Capital.

Finally, and in connection with the committee's proposed policy of the restraint on the United States transfer of major defense equipment to the Middle East and Persian Gulf region, the committee yesterday received formal notification of the President's decision to fulfill a request from the Government of the United Arab Emirates for the purchase of major defense equipment. Specifically, this notification informs us of the UAE's desire to purchase 20 AH–64 Apache attack helicopters and associated equipment including Hellfire missile and Hydra-70 rocket systems. This notification does not further the committee's proposed recommendation in support of a policy of restraint on the sale and transfer of major defense equipment to the Middle East and Persian Gulf region. For that reason, I am joined today by my colleagues on the committee: Mr. HAMILTON, Mr. BERMAN, Mr. GEJDENSON, Mr.

LANTOS, Mr. LEVINE, Mr. WEISS, Mr. LAFALCE, Mr. GEPHARDT, Mr. GILMAN, Mr. OBEY, and Mr. MILLER of Washington in introducing a resolution of disapproval in opposition to this proposed sale.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. HYDE. It is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 215, line 23, strike out "shall" and insert in lieu thereof "should".

Page, 217, beginning in line 23, strike out "on or after May 21, 1991," and insert in lieu thereof "after the date of enactment of this Act".

Page 221, line 19, strike out "May 21, 1991" and insert in lieu thereof "the date of enactment of this Act".

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, there are two problems with the section that this amendment is designed to correct. The first one has to do with the word "shall." It says the President "shall seek negotiations among and undertake good faith efforts to convene a conference of five permanent members of the United Nations Security Council and other nations as appropriate," et cetera.

My concern is that under the Constitution and under the doctrine of separation of powers, we really cannot tell the President that he shall seek negotiations. The President has the executive power untrammeled by any restrictions under the Constitution. The Supreme Court has affirmed the primacy of the President in the area of foreign affairs. It just seems to me that we should say "should" rather than "shall" to eliminate any constitutional infirmity.

Mr. Chairman, I have an amendment to section 242 of the bill. This section seeks to reduce arms proliferation in the Middle East by limiting U.S. arms transfers to the region and inducing other arms supplier nations to exercise similar restraint.

I commend the effort to limit arms transfers to this volatile region of the world. Upon reviewing the legislative language, however, I have determined that the proposed mechanism for achieving this objective is flawed as a matter of constitutional law. It is also fiscally ill-advised.

This amendment is an endorsement of the policy of this bill to reduce arms proliferation in the region—but is an effort to correct constitutional and other infirmities.

COMMANDING THE PRESIDENT TO NEGOTIATE

The first problem with the bill occurs in subsection (c). In pertinent part, this subsection states:

[a]s soon as practicable after the date of enactment of this Act, the President *shall* seek negotiations among, and undertake good faith efforts to convene a conference of, the five permanent members of the United Nations Security Council and other nations as appropriate. * * * to establish a comprehensive multilateral arms transfer and control regime with respect to the Middle East. * * *" (Emphasis added.)

As currently written, this language is unconstitutional. Numerous Supreme Court cases, beginning with the Court's 1936 decision in Curtiss-Wright Export Corp. versus United States, have affirmed the primacy of the President in the area of foreign affairs. These judicial precedents make it clear that the President is the chief agent of the United States in its relations with other countries. Neither article I, section 8—which enumerates Congress' constitutional powers—nor any other provision of the Constitution vests in Congress the power to command the President to enter into negotiations, or to establish the content of international agreements which might be negotiated.

The obvious remedy to this problem is to change the word "shall" on line 23 of page 215 to "should." This adjustment would preserve the expression of congressional intent regarding the need for multilateral negotiations, while eliminating the constitutional infirmity caused by the existing legislative edict to the President. It would also make subsection (c) consistent with the policy statement on multilateral arms control negotiations on page 106 of the bill, which urges the President, rather than ordering him, to negotiate multilateral arms transfer controls.

PREEMPTING U.S. ARMS TRANSFERS PRIOR TO ENACTMENT

The second constitutional problem concerns the legislation's intended effect on the President's ability to conduct U.S. foreign policy before the legislation becomes law. Under subsection (f), which appears on page 221 of the bill, U.S. transfers of defense articles or defense services to the Middle East would be permitted only if such transfers were pursuant to an agreement entered into before May 21, 1991. Transfers pursuant to an agreement entered into on or after May 21 would be prohibited, despite the fact that this legislation could not be signed into law until long after that date.

This provision is inconsistent with the principles of separation of powers expressed by the Supreme Court in the case of Immigration and Naturalization Service versus Chadha, in which the Court struck down the legislative veto. In Chadha, the Court stated that—

To take action that had the purpose and effect of altering the legal rights, duties, and relations of persons * * * outside the legislative branch. * * * [Congress must act] in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President.[1]

[1] 462 U.S. 919, 952, 958 (1983).

The provision in question attempts to circumvent this fundamental constitutional rule by establishing an effective date for permissible arms transfers which is prior to the date of enactment. This plainly violates the spirit, if not the letter, of Chadha.

The solution to this problem is simply to amend section 242 to permit arms transfers pursuant to agreements lawfully entered into prior to the enactment of this legislation.

The proponents of this legislation assert that Congress' establishment of a retroactive effective date governing arms transfers is permissible because such retroactivity is an accepted feature of U.S. tax laws. This argument simply is inapplicable in the present context.

A review of the case law suggests that retroactive effective dates are unique to economic legislation such as the tax laws, where Congress is accorded strong deference and the standard of judicial review is extremely low. But we are not dealing here with economic legislation—we are dealing with the conduct of U.S. foreign policy—and in this arena, the executive branch has primacy.

CONTRACTUAL LIABILITY OF THE U.S. GOVERNMENT

In addition to these constitutional problems, the retroactivity provision in question could expose the U.S. Government to financial liability if this legislation were enacted. If the Department of Defense, for example, were unable to implement arms transfer agreements lawfully entered into between May 21, 1991, and the date of enactment, it might have to suspend procurement contracts with defense contractors that had been performing work pursuant to those agreements. In that event, the U.S. Government would be responsible for any costs or damages incurred by the defense contractor resulting from the suspension of the procurement contract.

Similarly, American corporations which contract to provide defense articles or services to foreign buyers could be liable for breach of contract if they undertook a contractual obligation after May 21 to supply such articles or services. At best this raises fundamental questions of fairness; at worst, it raises due process issues.

CONCLUSION

In conclusion, Mr. Chairman, I want to reiterate that I strongly endorse the goal of arms control in the Middle East. But we should seek to achieve this goal without trampling on the separation of powers principles of the Constitution or causing the U.S. Government and American defense contractors to risk financial liability.

Now, I have had a discussion with the chairman of the committee, and we have reached an accommodation. I would like to ask the chairman of the committee, the gentleman from Florida [Mr. FASCELL] that if I should withdraw this amendment when this matter and if this matter reaches conference, if the gentleman would bear in mind my concerns about the mandatory nature of telling the President that he shall seek negotiations and seek some way of expressing the ideas that the gentleman has in a less intrusive way insofar as the President's constitutional prerogatives, the prerogatives of his office are concerned?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Florida.

□ 1750

Mr. FASCELL. I cannot speak for all Members, but the gentleman is very persuasive. He has raised this point not just now but many times, and the Presidential prerogatives need to be preserved. There is no question about that. We are not looking for a constitutional confrontation.

Our job here is to preserve the prerogatives of the President and the Congress, and we will work with the gentleman to try to provide a less intrusive manner in dealing with this subject.

Mr. HYDE. I thank the gentleman. I appreciate that, Mr. Chairman, because Presidents rightfully are very jealous of the prerogatives of their office, and they like to hand the office to their successor unimpaired by congressional transgressions. So I appreciate that.

The second problem that I have with the legislation, and that my amendment is directed to correct, has to do with the intended effect on the President's ability to conduct U.S. foreign policy before the legislation becomes law. Under subsection (F), which appears on page 221 of the bill, United States transfers of defense articles or defense services to the Middle East would be permitted only if the transfers were pursuant to an agreement entered into before May 21, 1991. Transfers pursuant to an agreement entered into on or after May 21 would be prohibited despite the fact that this legislation could not be signed into law until long after that date.

We have now had a further discussion, and the chairman has offered in conference to change the date that we are speaking of here to the date of enactment, which I think would cure the infirmity we speak of, and that the gentleman will confirm that is his commitment, and then I would ask unanimous consent to withdraw my amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I will say to the gentleman that while I would not want to prejudge the conference, because I cannot do that, that as far as I am concerned, we had no intention by picking a date to arbitrarily impact on existing contracts or agreements or even arrangements, for that matter, because we do not go into the issue of whether the matter is a written or a verbal matter. Nevertheless, I think that a reasonable date, either the date of enactment or some other date, depending on how the discussion goes, I see right now no objection to the date of enactment, but it might arise in the course of the conference. Why do we not just say we mutually agree that the date in here is not one that we will be hidebound—I am sorry; that was not a pun. Sorry.

Mr. HYDE. The gentleman is too facile with those words.

Mr. FASCELL. And we will either work toward the date of enactment or some other date that is satisfactory that does not impinge on ongoing arrangements, and I will say with respect to the previous colloquy we had, the Constitution, under articles I and II, we want to preserve those prerogatives. We have no intention of trying to invade those at all.

We will work with the gentleman and try to do both of these objectives.

Mr. HYDE. Mr. Chairman, I am very pleased with the chairman's remarks.

Mr. BERMAN. Mr. Chairman, will the gentleman yield.

Mr. HYDE. I am happy to yield to the learned gentleman from California.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, the only thing I would say is that while I think there is logic to what the gentleman is suggesting, and I think that is probably just what would happen with respect to a cutoff date on existing contracts, I am sure the gentleman would not want to do anything that would provide an inducement for companies or governments to rush to reach agreements in the notion that they might escape the implications and the whole focus of this particular language.

Mr. HYDE. Absolutely not. The gentleman has correctly stated my views.

Let me thank the chairman for his accommodation.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 127 Sec. 2207. Authorizations of Appropriations, line 1, strike "$4,411,444,000" and replace with "$4,386,444,000".

On line 2 strike "$4,840,000,000" and replace with "$4,815,000,000".

Mr. VOLKMER. Mr. Chairman and members of the committee, this amendment is very simple. It merely strikes $25 million from the military assistance provisions of the bill, and the reason it is only $25 million is that later on when we get to title VIII, I plan, and I have an amendment in order, and there are other amendments offered by other Members who have the same amendment that would strike the money basically for Jordan.

If we are going to strike the money, then this is the money. All I am asking is to reduce the amount of military assistance by $25 million in order that we provide no funds to the country of Jordan.

I believe the United States owes no commitment whatsoever to the country of Jordan, given their blatant actions during the United States' conflict with Iraq commonly known as Desert Storm.

I am disappointed the committee saw fit to include $25 million in finance authority for military procurement for the country of Jordan given their hostile attitude toward us and our allies. Do we not all remember the thousands of people of Jordan in the streets praising Saddam Hussein, burning the United States flag? Do we not remember King Hussein threatening Israel if they used Jordan's airspace to retaliate against Iraq for shooting Scuds into residential communities?

Providing Jordan with any support, in my opinion, is like offering Saddam Hussein money to rebuild his Republican Guard. It is a smack in the face of those who put their lives on the line to free Kuwait and a smack in the face of the American people who watched the Jordanians' obvious support for our enemy.

We have supported Jordan, and in the past we have welcomed King Hussein to our country. It is obvious this past support and friendliness carried no weight when we needed their support.

Not only did they turn the other way when their neighbors and fellow Arabs were being threatened and killed by Saddam and his henchmen, they praised his actions. Even Iran did not go that far. Even Syria sided against Saddam.

Are we expected to support other enemies like Libya and Cuba? They showed no more support for Saddam than did Jordan.

I ask my colleagues to join me today to send a clear message to Jordan: No military assistance.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. If I understand the gentleman's amendment, he is simply making here a cut in the funding?

Mr. VOLKMER. The gentleman is correct. Total.

Mr. HAMILTON. The gentleman is not identifying any particular country at this point?

Mr. VOLKMER. That is correct.

Mr. HAMILTON. It is the gentleman's intention when we get to title

VIII that he will offer a specific amendment to cut Jordan?

Mr. VOLKMER. That is correct. No funds for Jordan.

Mr. HAMILTON. Of course, this gentleman will oppose the cut for Jordan, but I think we are prepared to accept this amendment without prejudice to Jordan, and that when we get to title VIII, then we will have that discussion and a voice.

Mr. VOLKMER. I appreciate that.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. If that is acceptable to the gentleman and to the chairman, the only thing I would add is this, that depending on the outcome of the gentleman's amendment in title VIII, we would then have to restore this money.

Mr. VOLKMER. You have always got confidence. I will put it this way, Mr. Chairman: I will make it easier for the gentleman. I would agree, and I do not know whether other Members do, but if we get to title VIII and the money for Jordan, if I lose on the amendment, or our people believe that I do lose on it, if the gentleman wants to ask unanimous consent to have the money restored, I will be glad to do it.

Mr. FASCELL. Mr. Chairman, I will ask unanimous consent that in the event that we get to title VIII and the gentleman's amendment is defeated, it would be in order to offer an amendment to restore the money.

Mr. VOLKMER. Mr. Chairman, because there are others who have proffered the amendment also on Jordan, if any amendment that restricts any military assistance to Jordan is defeated, then the $25 million goes back.

Mr. FASCELL. The gentleman is a scholar and a real gentleman. I thank the gentleman.

Mr. Chairman, I make that unanimous-consent request.

The CHAIRMAN pro tempore. Would the gentleman restate for the Chair his request?

Mr. FASCELL. The unanimous-consent request, Mr. Chairman, is that the pending amendment here will be accepted without prejudice to Jordan. On its acceptance, the unanimous-consent request is that when we get to title VIII, if there is no amendment in title VIII restricting aid to Jordan, then it would be in order to offer an amendment to restore this money.

□ 1800

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I just came in the door. I do have an amendment relating to Jordan in title VIII. What I want to do is make it very clear that I understand what the gentleman is trying to do.

Would the gentleman restate it for my benefit?

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I offered an amendment pending, striking $25 million from the total authorization for military assistance with the idea that later on when we get to title VIII there will be an amendment that the gentleman from Indiana, I, and others have offered on Jordan, to strike the money on Jordan.

This is the $25 million that would go to Jordan. The gentleman from Florida, the chairman of the committee is now saying, and I have agreed to it, that if we lose on our amendment on Jordan, and under the bill Jordan is still eligible for military assistance, he would be entitled to restore that $25 million at that time.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, it would be in order to offer an amendment at that time. I am not saying that I will offer an amendment.

Mr. BURTON of Indiana. Mr. Chairman, I understand and I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Without objection, the unanimous-consent request is agreed to.

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment was agreed to.

Mr. RAHALL. Mr. Chairman, I am opposed to the provisions in title II, chapter 3 of the foreign aid bill. It continues to rob the American taxpayer of their right to get back something on their national security investment. It denies them access to defense equipment that the Department has said it no longer needs.

The bill is constructed so as to continue to deny States access to Department of Defense heavy construction machinery that the Defense Department no longer needs and the States are begging for. Where does it go? It goes to foreign governments, not back to the States for America's use.

I have had a bill pending here for 2 years trying to get this excess property for our States. They desperately need it.

It is not only being given away to foreign countries, it is shipped to them totally free of charge. They don't have to pay to acquire it, they don't have to pay to repair it, and they don't have to pay to transport it from anywhere in the world.

I had GAO investigate and report to me on how many countries are receiving this equipment and at what cost. The GAO reported that 39 foreign countries are receiving heavy equipment, and GAO also found that the equipment donated was worth $48 million, paid for by American taxpayers. But that wasn't the worst part. The worst part was that GAO also discovered that our Government spent another $46 million to give it away.

That's a total of $94 million—all for the same equipment—and our State citizens, our District residents, did not get a dime of this—not a dime.

Let me emphasize, Mr. Chairman, that American taxpayers paid for this heavy equipment twice, once when it was bought and again when it was given away, for a total of $94 million for equipment valued at $48 million.

Do you know what States get, Mr. Chairman? They get scrap and junk. And they pay for its repair, and they pay for its transportation, or they don't get it. Period.

I had an amendment to this bill that would have repealed the authorized appropriations for this double giveaway. If Members want to continue to send America's property to every country but the U.S.A., that is one issue. But do we have to pay to put it in mint condition, and ship it to them in velvet crates with overnight delivery?

But I was advised, just like my friend GENE TAYLOR, that my amendment would be ruled out of order—that a point of order would be raised, and I'd lose.

This bill amends underlying law that provides what little assistance the States now get in surplus property. To have an amendment to that same underlying law ruled out of order makes no sense to me.

I hope the American people are listening and listening well. This bill is a $25 billion bill—and to boot it would further deprive States of the little they are getting now in property they've paid for twice, and property they desperately need. They will get not one dime from this bill.

The CHAIRMAN pro tempore. Are there additional amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 301. CONSOLIDATION AND REVISION OF AUTHORITIES.

The Foreign Assistance Act of 1961 is amended by inserting after title II, as added by title II of this Act, the following:

"TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

"CHAPTER I—TRADE AND DEVELOPMENT AGENCY

"SEC. 3101. PURPOSE.

"The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in friendly developing and middle-income countries, in order to promote the four basic objectives set forth in section 1102.

"SEC. 3102. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with friendly countries, including those in which the United States development programs have been concluded or those not receiving assistance under title I or chapter 1 of title V of this Act, to carry out

the purpose of this chapter by providing funds for feasibility studies, engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(b) USE OF FUNDS.—Funds under this chapter may be used to provide support for feasibility studies for the planning of, development of, management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this chapter may also be used for engineering design, including—

"(1) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(2) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(c) INFORMATION DISSEMINATION.—

"(1) IN GENERAL.—The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(2) OFFICE OF INTERNATIONAL MAJOR PROJECTS OF THE DEPARTMENT OF COMMERCE.—The Trade and Development Agency shall cooperate with the Office of International Major Projects of the Department of Commerce in order to provide information to persons in the private sector concerning trade development and export promotion related to multilateral development projects.

"(4) OTHER AGENCIES.—Other Federal departments and agencies shall cooperate with the Trade and Development Agency in order for the Agency to more effectively provide informational services in accordance with this subsection.

"(d) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this chapter may be used notwithstanding any other provision of law.

"SEC. 3103. DIRECTOR AND PERSONNEL.

"(a) DIRECTOR.—The Director of the Trade and Development Agency shall be the head of the agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) OFFICERS AND EMPLOYEES.—

"(1) APPOINTMENT.—The Director may appoint such officers and employees as the Director considers appropriate.

"(2) FUNCTIONS.—The officers and employees appointed under this subsection shall have such functions as the Director may determine.

"(3) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the officers and employees appointed under this subsection, 4 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(4) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual appointed under paragraph (3) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3104. ANNUAL REPORT.

"The Director of the Trade and Development Agency shall, not later than December 31 of each year, submit to the appropriate congressional committees a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"SEC. 3105. ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Director of the Trade and Development Agency shall, by regulation, establish an advisory board which shall include representatives of the private sector.

"(b) PURPOSE.—The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Agency.

"SEC. 3106. INSPECTOR GENERAL.

"(a) AUTHORITY.—The Inspector General of the Agency for International Development—

"(1) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the program and operations of the Trade and Development Agency for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(2) shall conduct all security activities of the Trade and Development Agency relating to personnel and the control of classified material.

"(b) RELATION TO DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY.—The Inspector General shall report to and be under the general supervision of the Director of the Trade and Development Agency with respect to activities undertaken pursuant to this section, except that the Director shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978, and any other applicable laws and regulations.

"(c) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Trade and Development Agency shall be considered to be a Federal entity and the Director of the Trade and Development Agency shall be considered the head of the Federal entity.

"(d) SEMIANNUAL REPORT.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this section.

"SEC. 3107. FUNDING.

"There are authorized to be appropriated for purposes of this chapter, in addition to funds otherwise available for such purposes, $55,700,000 for fiscal year 1992 and $70,000,000 for fiscal year 1993.

"CHAPTER 2—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 3201. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States.

"(b) DEVELOPMENT AND PER CAPITA INCOME CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $1,091 or less in 1989 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,734 or more in 1989 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) and eligible East European countries (within the meaning of the Support for East European Democracy (SEED) Act of 1989).

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

"(1) to conduct insurance, reinsurance, guarantee, and financing operations on a self-sustaining basis, taking into account in its guarantee and financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of less developed countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to conduct its activities in consonance with the activities of the administering agency for title I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(9) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.

"SEC. 3202. STOCK OF THE CORPORATION; ORGANIZATION AND MANAGEMENT.

"(a) STOCK.—The Secretary of the Treasury shall hold the capital stock of the Corporation.

"(b) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors

(hereinafter in this chapter referred to as 'the Board') which shall consist of 15 Directors (including the Chair, Vice Chair, and the President of the Corporation), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the Administrator, ex officio.

"(B) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, the Deputy United States Trade Representative.

"(C) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall serve as a Director, ex officio.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Of these, at least—

"(I) two shall be experienced in small business,

"(II) one shall be experienced in organized labor, and

"(III) one shall be experienced in cooperatives.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any such Director may waive any such compensation.

"(d) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(e) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3203. INVESTMENT INSURANCE, GUARANTEES, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this chapter, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this chapter, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 3206(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the appropriate congressional committees a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 6304.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 3206(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment,

surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 7201(a) or from other sources, public or private.

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 3201 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof with respect to risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this chapter which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 3206(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(g) EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR EQUITY FINANCE PROGRAM.—The Corporation is authorized to establish an equity finance program under which it may, on the limited basis prescribed in paragraphs (2) through (4), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this chapter, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(4) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the appropriate congressional committees on the implementation of the equity finance program established under this subsection.

"SEC. 3204. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

"(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this chapter, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(3) Notwithstanding section 3208(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(b) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(A) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(B) Up to 4 persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

"(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(3) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"SEC. 3205. GUIDELINES AND REQUIREMENTS FOR OPIC SUPPORT.

"(a) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in section 3201(b)(1), the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the administering agency for title I.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—The Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(3) ALLOCATION OF INCOME.—The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this subsection. Such funds may be expended

notwithstanding the requirements of section 3201(c)(1), on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by sections 3203 and 3204.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall ensure that the project is consistent with the objectives set forth in sections 1102(a)(2) of resource sustainable development.

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 1241 relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this chapter in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, reinsurance, guarantees, or financing under this chapter for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization that relate to the public health or safety or the environment and are applicable to the project; and

"(B) to the maximum extent practicable, any restriction, under any law of the United States, that relates to public health or safety or the environment and would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country).

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guarantee, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 6201(a)(2) shall apply to any insurance, reinsurance, guarantee, or financing provided by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting poor people) set forth in subsection (b)(1)(C) of such section, the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this chapter on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this chapter, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, guarantee, financing, or other financial support authorized by this chapter, if that violation related to a project insured, reinsured, guaranteed, financed, or otherwise supported by the Corporation under this chapter.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this chapter for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 3201 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this chapter.

"SEC. 3206. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 3203(a) shall not exceed in the aggregate $7,500,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 3203(b) shall not exceed in the aggregate $2,500,000,000.

"(B) Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 but subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $1,500,000 from its noncredit account revolving fund to pay for the estimated subsidy cost of a program level for the loan guarantee program under section 3203(b) of $375,000,000 for fiscal year 1992. Such funds shall remain available in fiscal year 1993.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 3203 shall continue until September 30, 1992.

"(b) DIRECT LOAN PROGRAM.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 but subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $4,800,000 from its noncredit account revolving fund to pay for the estimated subsidy cost of a program level for its direct loan program under section 3203(c) of $50,000,000 for fiscal year 1992. Such amounts shall remain available for fiscal year 1993.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 3203(g) and to make a one-time transfer to the fund of $35,000,000 (less amounts transferred to the fund before the effective date specified in section 1101 of the International Cooperation Act of 1991) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 3203(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the

extent or in such amounts as are provided in advance in appropriations Acts.

"(d) INSURANCE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserves shall consist of—

"(A) any funds in the insurance reserves of the Corporation on the effective date specified in section 1101 of the International Cooperation Act of 1991,

"(B) amounts transferred to the reserves pursuant to this chapter, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 3203, under similar predecessor guarantee authority, or under section 3204, shall be paid first out of the insurance reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 3203(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserves, to discharge the liabilities under insurance or reinsurance, issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserve until the amount of funds in the insurance reserve is less than $25,000,000. Any appropriations to augment the insurance reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 3206(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"(h) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $12,000,000 from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs for fiscal year 1992. Such funds shall remain available in fiscal year 1993.

"SEC. 3207. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from its noncredit activities, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves maintained under section 3206(d), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 3208. GENERAL PROVISIONS RELATING TO INSURANCE, GUARANTY, AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this chapter shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this chapter, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued under predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued under this chapter shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, guarantees, financing, and other services under this chapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guarantees, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guarantees, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 3203 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this chapter shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this chapter shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 3203 or 3204 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this chapter or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on

such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) OPERATIONS IN CERTAIN COUNTRIES.—Except for the provisions of this chapter, no other provision of this or any other law shall be construed to prohibit the operation in any eligible East European country (within the meaning of the Support for East European Democracy (SEED) Act of 1989) of any program authorized by this chapter, if the President determines that the operation of such program in such country is important to the national interest.

"SEC. 3209. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this chapter.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) POWERS.—To carry out the purposes of this chapter, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 3201(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 3208(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) INSPECTOR GENERAL.—

"(1) AUTHORITY.—The Inspector General of the administering agency—

"(A) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the Corporation's programs and operations for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(B) shall conduct all security activities of the Corporation relating to personnel and the control of classified material.

"(2) RELATION TO PRESIDENT OF CORPORATION.—The Inspector General shall report to and be under the general supervision of the President of the Corporation with respect to activities undertaken pursuant to this subsection, except that the President of the Corporation shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978 and any other applicable law or regulation.

"(3) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Corporation shall be considered to be a Federal entity and the President of the Corporation shall be considered the head of the Federal entity.

"(4) SEMIANNUAL REPORT.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this subsection.

"(e) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(f) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this chapter, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, guarantees, financing, or other assistance provided by the Corporation.

The provisions of this chapter shall be controlling with respect to the Corporation's programs and operations.

"SEC. 3210. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 3205(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, guarantee, financing, or other financial support, on account of violations of human rights referred to in section 3205(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, guarantee, financing, or financial support, on the basis of a determination that—

"(i) the project benefits poor people consistent with section 6201(b)(1)(C), or

"(ii) the national security interest so requires.

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance, reinsurance, or guarantee or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 3204(a), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this chapter.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this chapter.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 3211. DEFINITIONS.

"As used in this chapter, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this chapter—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, or

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) NONCREDIT ACCOUNT REVOLVING FUND.—The term 'noncredit account revolving fund' means the account in which funds under section 3205 and all funds from noncredit activities are held.

"(7) NONCREDIT ACTIVITIES.—The term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 3203(b) and its direct loan program under section 3203c).

"(8) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).".

The CHAIRMAN pro tempore. Are there amendments to title III?

If not, the Clerk will designate title IV.

The test of title IV is as follows:

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

SEC. 401. CONSOLIDATION AND REVISION OF AUTHORITIES AND REQUIREMENTS.

The Foreign Assistance Act of 1961 is amended by inserting after title III, as added by title III of this Act, the following:

"TITLE IV—INTERNATIONAL NARCOTICS CONTROL

"CHAPTER 1—GENERAL POLICIES

"SEC. 4101. STATEMENTS OF POLICY.

"(a) GENERAL STATEMENT OF POLICY.—

"(1) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

"(2) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(3) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(4) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(5) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

"(b) MULTILATERAL DEVELOPMENT BANKS.—In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic and psychotropic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

"SEC. 4102. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

"(a) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(b) RULE OF CONSTRUCTION.—Nothing contained in this section or section 4401(c) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"CHAPTER 2—NARCOTICS CONTROL ASSISTANCE

"SEC. 4201. AUTHORITY TO CONCLUDE AGREEMENTS AND PROVIDE ASSISTANCE.

"(a) AUTHORITY TO CONCLUDE AGREEMENTS.—In order to promote effective international cooperation, the President is au-

thorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization for the control of narcotic and psychotropic drugs and other controlled substances.

"(c) ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this title.

"SEC. 4202. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 4201, there are authorized to be appropriated to the President $171,500,000 for fiscal year 1992 and $171,500,000 for fiscal year 1993.

"SEC. 4203. CONTRIBUTION BY RECIPIENT COUNTRY.

"To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an 'in kind' basis.

"SEC. 4204. USE OF HERBICIDES FOR AERIAL ERADICATION.

"(a) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

"(b) ANNUAL REPORTS.—The President shall report on such impact in the annual report required by section 4401(a).

"(c) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the appropriate congressional committees, together with such recommendations as the President deems appropriate.

"SEC. 4205. PROHIBITION ON PROCUREMENT OF WEAPONS AND AMMUNITION.

"(a) PROHIBITION.—Except as provided in subsection (b), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

"(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to funds for the procurement of—

"(1) weapons or ammunition for the defensive arming of aircraft used for narcotics-related purposes, or

"(2) firearms and related ammunition provided for defensive purposes to employees of the Department of State engaged in activities under this title,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"SEC. 4206. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.

"(a) IN GENERAL.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

"(b) RECORDS OF AIRCRAFT USE.—

"(1) REQUIREMENT TO MAINTAIN.—The President shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(2) CONGRESSIONAL ACCESS.—The President shall make the records maintained pursuant to paragraph (1) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

"(c) ANNUAL REPORTS.—In the reports submitted pursuant to section 4401(a), the President shall discuss—

"(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

"(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

"SEC. 4207. RETENTION OF TITLE TO AIRCRAFT.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO RETAIN TITLE.—Except as provided in subsection (b), any aircraft which are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"(2) EFFECTIVE DATE.—Paragraph (1) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

"(b) EXCEPTIONS.—

"(1) NATIONAL INTEREST EXCEPTION.—Subsection (a) shall not apply to the extent that—

"(A) the application of that subsection with respect to particular aircraft would be contrary to the national interest of the United States; and

"(B) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) TRANSFERS UNDER CERTAIN AUTHORITIES.—Subsection (a) does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

"(c) ASSISTANCE FOR LEASING OF AIRCRAFT.—

"(1) USE OF FUNDS.—For purposes of satisfying the requirement of subsection (a), funds made available for foreign military financing assistance may be used to finance the leasing of aircraft under chapter 6 of the Defense Trade and Export Control Act.

"(2) COST OF LEASES.—Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

"(3) REIMBURSEMENT OF SDAF.—To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

"SEC. 4208. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such acquisition, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"CHAPTER 3—FOREIGN ASSISTANCE GENERALLY AND NARCOTICS CONTROL

"SEC. 4301. PROHIBITION ON USE OF FOREIGN ASSISTANCE FOR REIMBURSEMENTS FOR DRUG CROP ERADICATIONS.

"Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

"SEC. 4302. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act is not provided to or through any individual or entity that the President knows or has reason to believe—

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country, relating narcotic or psychotropic drugs or other controlled substances; or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the appropriate congressional committees before they take effect.

"SEC. 4303. TRANSFER OF FUNDS WHEN COUNTRIES FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"Funds allocated under the report required by section 6303 for a country for economic support assistance, foreign military financing assistance, or international military education and training may be transferred to, and consolidated with, funds made available for international narcotics control assistance if—

"(1) such assistance is withheld from the country for which it was allocated because of the requirements of section 4402 or any other provision of law requiring the withholding of assistance for countries that have not cooperated with the United States or otherwise taken adequate steps to halt illicit drug production and trafficking; and

"(2) such funds are used for assistance for countries that have taken significant steps to halt illicit drug production or trafficking.

"SEC. 4304. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

"Narcotics-related assistance under title I or chapter 1 or chapter 2 of title V may be provided notwithstanding any provision of law that restricts assistance to foreign countries (other than section 4402) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"CHAPTER 4—REPORTS AND ANNUAL CERTIFICATION PROCESS

"SEC. 4401. REPORTING REQUIREMENTS FOR FISCAL YEARS 1992 AND 1993.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a comprehensive report with respect to all countries which are members of the United Nations—

"(1) on the state of international narcotics production and trafficking, money-laundering, and precursor chemical control; and

"(2) on United States efforts to prevent—

"(A) the illicit cultivation and manufacture of and trafficking in narcotic and psychotropic drugs and other controlled substances,

"(B) the diversion of precursor chemicals, and

"(C) money laundering.

"(b) CONTENTS OF REPORT.—Each report pursuant to subsection (a) shall include the following:

"(1) For each country that is a member of the United Nations, a report on the matters identified in section 4402(b)(2).

"(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

"(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries.

"(3) The identity of those countries which are—

"(A) major illicit drug producing countries or major drug-transit countries as determined under section 4403,

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States,

"(C) major sources of precursor chemicals used in the production of illicit narcotics, or

"(D) major money laundering countries.

"(4) In addition, for each country identified pursuant to paragraph (3), the following:

"(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

"(B) Whether as a matter of government policy, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

"(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

"(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

"(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

"(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

"(7) In addition, for those countries identified pursuant to paragraph (3)(D)—

"(A) which countries have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

"(B) which of the countries identified pursuant to subparagraph (A) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or have adopted laws or regulations that ensure the availability to appropriate United States Government personnel of adequate records in connection with narcotics investigations and proceedings.

"(8) In addition, for each country identified pursuant to paragraph (3)(D), findings on the country's adoption of laws and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(A) criminalized narcotics money laundering;

"(B) required financial institutions to record large currency transactions at thresholds appropriate to that country's economic situation;

"(C) required financial institutions to report suspicious transactions;

"(D) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(E) enacted laws for the sharing of seized narcotics assets with other governments; and

"(F) cooperated when requested with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government to address such obstacles, including the imposition of sanctions or penalties.

"(9) As used in this subsection—

"(A) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 902(33)); and

"(B) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided or to be provided;

"(B) include, for each country identified in subsection (b)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

"(i) the assistance provided or to be provided to such country by that agency, and

"(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"(d) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4401A does not apply during those fiscal years.

"SEC. 4401A. REPORTING REQUIREMENTS APPLICABLE AFTER SEPTEMBER 30, 1993.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—

"(1) REQUIREMENT FOR REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and

traffic in narcotic and psychotropic drugs and other controlled substances.

"(2) CONTENTS.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this title and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 4402A(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 4402 or 4402A, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this title prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this title.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"SEC. 4402. ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1992 AND 1993.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—

"(A) IN GENERAL.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 6303 for each major illicit drug producing country or major drug-transit country (as determined under section 4403) shall be withheld from obligation and expenditure, except as provided in subparagraph (B) and subsection (b).

"(B) WAIVER.—Subparagraph (A) shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURES.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 4401(a), that—

"(A) during the previous year the country has cooperated with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 30 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 4401(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

"(1) the President, at the time of submission of the report required by section 4401(a), makes a certification under subsection (b)(1)(A) or (B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(2) the President, at any other time, makes a certification under subsection (b)(1)(B) with respect to that country.

"(g) CONGRESSIONAL REVIEW PROCEDURES.—

"(1) SENATE.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(h) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4402A does not apply during those fiscal years.

"SEC. 4402A. ANNUAL CERTIFICATION PROCEDURES AFTER SEPTEMBER 30, 1993.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 6303 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 4401A(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum re-

ductions in illicit drug production which were determined to be achievable pursuant to section 4401A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct,

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"SEC. 4403. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEARS 1992 AND 1993.

"(a) REPORTING OF DETERMINATIONS.—Not later than October 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

"(b) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4403A, and the definitions provided in section 7601(e) (2) and (3), do not apply during those fiscal years.

"SEC. 4403A. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1993.

"(a) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 7601(e)(3) (A) and (B).

"(b) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to subsection (a) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(c) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(1) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(2) which countries have been determined to be major illicit drug producing countries for that year.

"SEC. 4404. STATUTORY REFERENCES.

"After September 30, 1993, any reference in this or any other Act to section 4401, 4402, or 4403 (other than references within those sections) shall be deemed to be a reference to section 4401A, 4402A, or 4403A, respectively.

"CHAPTER 5—MISCELLANEOUS PROVISIONS

"SEC. 4501. PARTICIPATION IN FOREIGN POLICE ACTIONS.

"(a) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

"(b) PARTICIPATION IN ARREST ACTIONS.—Subsection (a) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

"(c) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Subsection (a) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(d) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, subsection (a) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters of that country.

"(e) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control ef-

forts without the written consent of such person.

"(f) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This section does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

SEC. 402. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEARS 1992 AND 1993 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal years 1992 and 1993, section 6202 of the Foreign Assistance Act of 1961 shall not apply with respect to—

(1) transfers of excess defense articles under section 2302 of that Act;

(2) foreign military financing assistance that is provided for narcotics-related purposes; or

(3) international military education and training that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance.

SEC. 403. EXPORT-IMPORT BANK FINANCING OF ANTINARCOTICS-RELATED SALES OF DEFENSE ARTICLES OR SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 is amended by striking out "1992" and insert in lieu thereof "1994".

Mr. FEIGHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, title IV is the product of a very intensive committee review of current law and the executive branch request regarding a number of international narcotics control-related matters.

It attempts to streamline current law, give the executive branch the flexibility it requested where possible, but retain important principles about which the committee feels strongly.

The issues addressed in this title have been repeatedly reviewed by the committee's task force on international narcotics control and reflects a consensus between both majority and minority members on virtually all issues.

I would note that the executive branch requested a repeal or substantial modification of virtually all of the laws which the Foreign Affairs Committee has spent the past 10 years enacting. The committee could not and did not accept that proposal. However, I believe we have met the executive branch more than half-way in this legislation.

As a general rule, when the executive branch presented a defensible argument, the committee granted waivers of prohibitions in current law, with prior notice to the Congress. I would stress that the list of matters on which the President asked for and received increased flexibility in this title is extensive. It includes:

Authority to provide narcotics-related economic aid to countries who have been cut off from U.S. assistance for reasons unrelated to drug control, authority for the President to enter into reciprocal maritime agreements;

Authority for INM to acquire real property;

Authority to waive the prohibition on U.S. transferring title of drug control aircraft to foreign countries;

Authority for INM to acquire arms and ammunition for certain purposes;

Expands authority to provide excess defense articles for drug control purposes; and

Broader authority to provide aid to host country police from a variety of foreign aid accounts.

Some of these new authorities represent a change from longstanding committee-sponsored legislation, and reflect what we hope is a justified faith in the willingness of the executive branch to use these authorities judiciously. Although these changes are outlined in detail in the committee report on H.R. 2508, I wanted to highlight them at this time since these new authorities seem to have escaped the attention of the executive branch in its comments on this title.

The most significant change contained in this title, Mr. Chairman, is a change in the drug certification process. The executive branch request contained a repeal of this process. There was bipartisan opposition to this request.

However flawed the certification requirement may be, it remains the principal vehicle by which the Congress ensures that at least once a year narcotics control issues overseas receive intense scrutiny by the executive branch. The committee has fought long and hard to get the narcotics issue on the U.S. foreign policy agenda, and it intends to keep the issue there.

However, the committee also realizes that times have changed since the certification process was enacted in 1986.

So, in a spirit of cooperation, the committee has proposed a 2-year trial period under which the certification process would be modified. To address the executive branch's perceived need for increased flexibility, this title would:

Streamline current language in the law regarding the certification and INCSR process;

Give the President complete flexibility to determine which countries are included on the certification list;

Waive the current 50-percent aid withholding requirement if the President determines it is in the national interest and gives prior notice to Congress;

Reduce the congressional review period from 45 legislative days to 30 legislative days—as it was in the original certification law—and

Provide special waivers to address unique situations in which conditions in decertified countries suddenly change.

The committee proposes to try this new approach for a 2-year period. At the end of that time, current law would again become applicable unless the new approach proves satisfactory.

In return for all of this increased flexibility, we have asked the President to do something which I believe few Members will find objectionable. We have asked that when the annual report on international narcotics control strategy is submitted, that it cover each country which is a member of the United Nations. I believe that this is an eminently reasonable and justified request, for the following reasons.

First, for over a decade, we have required such a report on human rights in every member country of the United Nations, and it has proved to be both an excellent reference document and an opportunity to put human rights on our foreign policy agenda at least once a year with every country, whether friend or foe. I believe our proposal would do the same for our narcotics control agenda. I believe that an issue which the President has determined to be our No. 1 peacetime priority deserves no less.

Second, until very recently, such a report was already required by the State Department for its internal use by all countries in which we have diplomatic representation.

Since at least 1978, the State Department required every diplomatic post overseas to report in detail—in fact, in greater detail than that contemplated under this legislation—on narcotics issues in their countries.

This was not a congressionally mandated report, it was a report imposed by the State Department on itself. The report was not shared with Congress. For reasons no one has been able to explain to me, sometime in the recent past the State Department stopped requiring this report.

All we are asking is that they reinstitute it, and share it with the Congress.

I would note that every overseas Embassy already has a designated narcotics coordinator, so this would constitute no additional personnel burden or management changes overseas to carry this out.

Third, the State Department's narcotics bureau [INM] provides aid in one form or another to over 100 countries in the world. If drug control issues are deemed important enough in a specific country, we provide narcotics control aid. It shouldn't be too much to ask to get an annual report on how this money is being spent and whether any progress is being made.

Fourth, one of the things we have learned over the years is that the scourge of narcotics is penetrating virtually every country in the world, often in unexpected ways. To the extent that we try in our policy to be pro-active, to identify problems before they reach crisis proportions, it behooves us to look at this problem in each country in the world once a year before today's Botswana becomes tomorrow's Bolivia.

The executive branch appears to believe this proposal is onerous.

We have done our best to meet their concerns:

We have deleted from current law a provision requiring a mid-year update of the annual drug report.

We have moved the reporting and certification date from March 1 to April 1, to provide more time to prepare this report.

We have made clear in report language that we do not expect the same breadth or depth of reporting on, say, Cape Verde that we do on Colombia.

Yet the State Department continues to oppose this proposal, claiming variously that expanded reporting would dilute attention from countries that should be focused on, would reduce the Assistant Secretary's impact on the report, that INM does not have the personnel or resources to carry out this mission, and that clearing the expanded report through several different U.S. Government agencies requires too much time and effort.

I do not believe we diluted the importance of the human rights report when we voted more than a decade ago to include the Soviet Union, Eastern Europe, and other countries in that report in addition to countries receiving United States aid.

I do not believe that Assistant Secretary Schifter, who states in this year's human rights report that "in calling upon the Department of State to prepare these reports, Congress has created a useful instrument for advancing the cause of human rights," would say that being required to report on every country's human rights record somehow lessens his personal interest in and impact on that report.

I do not believe that INM, with twice the number of employees as the Human Rights Bureau and a budget that is scheduled to increase by 14 percent for fiscal year 1992 on top of a budget that has tripled since 1985, is incapable of finding the resources to collate and provide to the Congress drug reporting by our Embassies around the world.

Finally, I do not believe that our President and our Director of the Office of National Drug Control Policy, who are committed to fighting the scourge of drugs on every front, cannot convince whatever U.S. agencies are involved to cooperate in a timely fashion to produce this modest change.

I urge all Members to support this provision, and I urge the executive branch to reassess its position on this issue.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I strongly support title IV and related international narcotics control provisions in H.R. 2508. I have been closely involved with legislation on international narcotics issues for over a decade and I believe this package is a significant step forward in our efforts. The international narcotics control provisions strike just the right balance between granting administration flexibility and maintaining congressional oversight, and between streamlining congressional requirements and highlighting Members' concerns.

The gentleman from Ohio [Mr. FEIGHAN], the distinguished chairman of our Committee on Foreign Affairs' Task Force on International Narcotics Control, has done an outstanding job of shepherding this comprehensive rewrite of our narcotics control assistance legislation through the process from administration request to markup to the floor today. At each and every step, minority concerns were addressed seriously and substantively. I was reluctant to change current law with regard to a number of issues for the simple reason that there are legitimate concerns behind each provision in current law. Chairman FEIGHAN worked long and hard to achieve consensus. The result is the bill before us today which deserves the full support of Members on both sides of the aisle.

Title IV goes a long way to grant the administration the flexibility it states is needed to improve our international counternarcotics efforts. On the side of granting flexibility, H.R. 2508 allows INM to procure weapons and property, grant aircraft title and provide more types of assistance in more circumstances. With regard to oversight, the bill ensures that the kind of consultation promised by the administration will occur through notifications on issue of the greatest sensitivity. H.R. 2508 retains prohibitions on aid to drug traffickers and direct payments to coca farmers and also retains a number of amendments I have authored over the years on shipboarding agreements, narcotics and development, AID and USIA counternarcotics reporting, and reducing illicit cultivation in Afghanistan.

I believe the greatest advance in this bill—and it is truly historic—is the linkage of certification to a multilateral document and the geographical and topical expansion of the annual "International Narcotics Control Strategy Report," the INCSR. The bill greatly streamlines the certification process by replacing the 15 or more issues for consideration in current law with references to the 1988 United Nations Convention, and to the only two issues not addressed fully in that landmark document: corruption and performance standards in an applicable bilateral narcotics agreement. H.R. 2508 also expands the INCSR to address every country in the world and places special emphasis on production, transit, money laundering, and precursor chemical diversion.

Mr. Chairman, I have long argued that the scourge of narcotics is a global problem and can only be addressed through effective international cooperation. I first coauthored the Rangel-Gilman-Hawkins amendment in 1983 which called for a U.N. report card on nations' anti-drug efforts. The legislation before us is the logical follow-on from that approach and it recognizes the historic importance of the 1988 U.N. Convention. And because virtually no country in the world is unaffected by the traffic in illicit drugs, it is reasonable for us to have information on every country in the world, just as we do in the annual human rights report.

The administration has argued that the expanded INCSR reporting requirement places too much burden on those who prepare the report and that it is not feasible or desirable to address narcotics developments in all countries of the world. To meet some of these concerns, we have changed the date for the narcotics report from March 1 to April 1, effectively increasing the report preparation time by 40 percent. Our flexibility to modify the date for submitting the report—and to continue to work with the administration on this provision—shows we are willing to work cooperatively. H.R. 2508 provides a significant increase in INM's budget, although the Appropriations Committee has not yet met our authorized level. If there is a genuine lack of resources for INM to collate reports from the field for an expanded INCSR, I will be the first to fight for further increases in funding.

Finally, on the changes made to the provisions in title VII on the Andean Initiative, I believe we have reached an agreement satisfactory to all parties. Though H.R. 2508 departs substantially from the compromise we reached last year in the 1990 International Narcotics Control Act by lowering the ceilings of police and military aid, I am comfortable with the overall numbers.

Mr. Chairman, I believe we have an excellent anti-drug package before us. I would like to thank Chairman FEIGHAN once again for his leadership on this issue and look forward to working with him to bring about enactment of this legislation.

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The CHAIRMAN pro tempore. (Mr. MONTGOMERY). Are there any amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

SEC. 501. SPECIAL INITIATIVES AND PROVISIONS.

The Foreign Assistance Act of 1961 is amended by inserting after title IV, as added by title IV of this Act, the following:

"TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

"CHAPTER 1—LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA

"SEC. 5101. DEVELOPMENT FUND FOR AFRICA.

"(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—

"(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

"(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in any law to chapter 2 of title I or to development assistance shall be deemed to include a reference to this chapter and assistance under this section, and any reference in any law to title I of this Act shall be deemed to include a reference to this chapter; and

"(2) assistance under this section shall be provided consistent with the four basic objectives set forth in section 1102.

"(e) PRIVATE VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The administering agency shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the administering agency should consult closely with African, United States, and other private voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(2) DEFINITION OF PRIVATE VOLUNTARY ORGANIZATIONS.—For purposes of this section, the term 'private voluntary organization' includes (in addition to entities traditionally considered to be private voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which has a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The administering agency shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of chapter 2 of title I.

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base primarily in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH AND AIDS PREVENTION.—

"(A) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining.

"(B) ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).—Preventing and controlling the spread of acquired immune deficiency syndrome (AIDS), with a special emphasis on community-based education programs focused on changing attitudes and behavior.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

"(j) MINIMUM LEVEL OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The administering agency should target the equivalent of the following percentages of the amount appropriated for each fiscal year to carry out this chapter for the following activities:

"(1) NATURAL RESOURCE BASE.—Ten percent for activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) HEALTH.—Ten percent for activities described in subsection (i)(2)(A).

"(3) AIDS PREVENTION AND CONTROL.—Five percent for activities described in subsection

(i)(2)(B). In determining compliance with this paragraph, funds provided through international organizations shall be excluded.

"(4) VOLUNTARY FAMILY PLANNING SERVICES.—Ten percent for activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(n) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under subchapter A of chapter 2 of title I of this Act.

"(2) TRANSFER AUTHORITIES.—The transfer authority contained in section 6101 of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 6304 of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, 7402 of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(o) EVALUATIONS.—It is the sense of the Congress that there should be periodic evaluations of the progress of the administering agency in achieving the purpose specified in subsection (c).

"SEC. 5102. SUPPORT FOR SADCC PROJECTS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in subsection (b), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

"(b) SECTORS.—The sectors with respect to which assistance may be provided under this section are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(c) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this section shall be provided consistent with the policies and authorities contained in the section 5101.

"SEC. 5103. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this chapter $1,000,000,000 for fiscal year 1992 and $1,200,000,000 for fiscal year 1993.

"(b) EXTENDED PERIOD OF AVAILABILITY FOR FUNDS.—It is the sense of the Congress that the authority of section 7302 of this Act should be used to extend the period of availability of funds appropriated to carry out this chapter whenever appropriate to improve the quality of assistance provided under section 5101.

"CHAPTER 2—MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

"SEC. 5201. FINDINGS AND STATEMENT OF POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) The people of the Philippines and the people of the United States continue to enjoy a longstanding relationship of mutual respect and cooperation.

"(2) The return of democracy to the Philippines under the leadership of President Corazon Aquino has brought the Philippines and the United States closer together and offers an opportunity to the Philippines to again become an economic, social, and political leader in Southeast Asia.

"(3) The threat to democratic government in the Philippines from both the Communist insurgency and dissident elements in the Philippine military forces jeopardizes the efforts of the Government of the Philippines to broaden the participation of the people of the Philippines in the development of their country.

"(4) It is in the mutual interest of our two peoples that the Philippines be provided all possible assistance, including voluntary debt reduction programs under appropriate circumstances, in its efforts to redress the problems caused by economic deterioration and social inequity which have fueled the domestic insurgency.

"(5) The promotion of democracy and achievement of sustainable economic growth require a partnership among the Philippines, multilateral institutions, bilateral donors, and the private sector to help the Philippines restructure its economy and alleviate its debt service in order to achieve broadly based, self-sustaining growth and to improve the quality of life of the people of the Philippines.

"(6) Since its inauguration in Tokyo in July, 1989, the Multilateral Assistance Initiative for the Philippines has resulted in the pledging of more than $6,800,000,000 in assistance from 26 donor countries and organizations.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) the United States should continue to participate with the multilateral financial institutions and other bilateral donors in a coordinated economic reform and development program, including voluntary debt reduction programs, in the Philippines; and

"(2) the commitment of resources by the United States, other bilateral donors, and the multilateral financial institutions and a reform effort and leadership role by the Government of the Philippines will continue to be necessary in order to ensure economic growth in the Philippines and enhanced participation of the people of the Philippines in the democratic process.

"SEC. 5202. ASSISTANCE.

"(a) AUTHORITY.—The President is authorized to provide assistance to carry out this chapter in order to promote the four basic objectives set forth in section 1102. Such assistance shall have as its ultimate objective, in conjunction with assistance provided by other donors, support of democracy in the Philippines, promotion of sustained economic growth led by the private sector, and improvement of living conditions for the people of the Philippines, and shall build upon the progress that the Government of the Philippines has made in the development and implementation of economic, structural, judicial, and administrative reforms.

"(b) PROGRESS OF REFORMS NECESSARY FOR PROVISION OF ASSISTANCE.—The provision of assistance under this chapter shall be linked to progress by the Government of the Philippines in the implementation of its economic, structural, judicial, and administrative reform program.

"(c) USES OF ASSISTANCE.—Assistance under this chapter may include support for—

"(1) economic, structural, and administrative reforms, and voluntary debt reduction programs, that are necessary to stimulate growth led by the private sector, import liberalization, export growth and diversification, and the privatization of enterprises owned or controlled by the government;

"(2) infrastructure needed by the private sector, particularly in rural areas;

"(3) strengthening the private sector, including promoting greater participation of the United States private sector in the development of the Philippines; and

"(4) such other programs as are consistent with the purposes of this chapter.

"SEC. 5203. REPORTS TO CONGRESS.

"(a) ANNUAL CONGRESSIONAL PRESENTATION DOCUMENTS.—The President shall submit congressional presentation documents regarding programs under this chapter on the same basis as the President submits such documents under this Act regarding development assistance and economic support assistance programs.

"(b) REPORT ON PROGRAMS FOR PREVIOUS FISCAL YEARS.—Within 60 days after the date of enactment of the International Cooperation Act of 1991, the President shall submit a report to the Congress on the accomplishments of programs carried out for fiscal years 1990 and 1991 to carry out the purposes of this chapter, as well as on the objectives of such programs for fiscal year 1992.

"(c) ANNUAL REPORT.—As soon as possible after the transmittal by the President of the Budget of the United States for each fiscal year beginning with fiscal year 1993, the President shall submit a report to the Congress on the progress made in carrying out this chapter. Such report shall include a review of—

"(1) the actions of the Government of the Philippines to achieve the objectives for which assistance under this chapter has been provided, including implementation of economic, structural, judicial, and administrative reforms;

"(2) the participation of other bilateral donors and multilateral financial institutions in the multilateral assistance program for

which assistance under this chapter is authorized, including the level of their assistance, and the effectiveness of efforts to coordinate assistance activities;

"(3) the progress being made toward the achievement of the objectives of this chapter and the obstacles to such achievement; and

"(4) the budget request for the relevant fiscal year.

"SEC. 5204. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter, in addition to amounts otherwise available for such purposes, $1,000,000,000 (less amounts appropriated to carry out the purposes of this chapter for fiscal years 1990 and 1991), of which—

"(1) not more than $160,000,000 may be appropriated for fiscal year 1992; and

"(2) such sums as may be necessary are authorized to be appropriated for fiscal year 1993.

"SEC. 5205. APPROPRIATIONS IN FUTURE YEARS.

"It is the sense of the Congress that, before requesting the appropriation of additional amounts to carry out this chapter, the President should take into account the progress being made by the Government of the Philippines toward achieving the reform objectives of this chapter, the extent of financial and other participation of other bilateral donors and multilateral financial institutions, and efforts to coordinate the multilateral assistance program for which assistance under this chapter is authorized. Such considerations will be primary factors in decisions by the Congress to provide additional appropriations to carry out this chapter.

"SEC. 5206. DONOR COORDINATION.

"It is the sense of the Congress that critical to the success of the multilateral assistance program for which assistance under this chapter is authorized will be the ability of the bilateral donors, the multilateral financial institutions, and the Government of the Philippines to coordinate effectively their objectives and programs. It is further the sense of the Congress that all bilateral donors to this multilateral assistance program should take steps to simplify procurement and disbursement procedures and to ensure that any conditions on the provision or use of assistance are complementary, and that the Government of the Philippines should establish such internal procedures and processes as will ensure the most effective use of the resources provided by the bilateral donors and the multilateral financial institutions.

"SEC. 5207. ECONOMIC ASSISTANCE PROVISIONS.

"Except to the extent inconsistent with this chapter, assistance under this chapter shall be considered to be economic assistance under title I of this Act.

"CHAPTER 3—CARIBBEAN REGIONAL DEVELOPMENT

"SEC. 5301. SHORT TITLE.

"This chapter may be cited as the 'Caribbean Regional Development Act of 1991'.

"SEC. 5302. UNITED STATES POLICIES.

"(a) IN GENERAL.—It is the sense of the Congress that it should be the policy of the United States in providing development and other economic assistance to the Caribbean—

"(1) to help the poor to participate in the development of their societies through a process of equitable economic growth that enables them to increase their incomes and their access to productive resources and services, to protect and advance their rights, and to influence decisions that affect their lives;

"(2) to support development that is environmentally sustainable;

"(3) to promote Caribbean self-reliance by providing assistance to indigenous national and regional governmental and nongovernmental institutions that have the capacity or potential to carry out development programs effectively;

"(4) to support food production for national and regional consumption;

"(5) to promote the diversification of industrial and agricultural production, the development of new products, and the integration of agricultural production with the development of industry and tourism;

"(6) to help advance the process of regional economic integration; and

"(7) to preserve and reinforce traditional Caribbean culture and social values.

"(b) SUPPORTING INDIGENOUS DEMOCRATIC INSTITUTIONS.—Priority in providing development assistance to the Caribbean should be given to supporting indigenous democratic Caribbean institutions that represent, work with, and benefit the poor, and through which the poor participate in making the decisions that affect their lives and their development. Such assistance should be channeled, as appropriate, through United States institutions and Caribbean regional and national institutions that directly fund such democratic Caribbean institutions.

"SEC. 5303. PRIORITY AREAS FOR ASSISTANCE.

"To implement the policies set forth in section 5302, priority in the allocation of development assistance funds and the economic support assistance funds for the Caribbean, and in the allocation of the local currencies accruing as a result of the use of those funds, should be given to the following:

"(1) INCREASED FOOD PRODUCTION.—Support to national ministries of agriculture, the appropriate specialized agencies of the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States, the Caribbean Development Bank, and indigenous nongovernmental organizations for efforts to achieve increased food production, as appropriate, through increased staple food production for domestic consumption, including support for—

"(A) the gathering of agricultural data;

"(B) the coordination of agricultural research;

"(C) the improvement of marketing, storage, and transportation systems;

"(D) the provision of credit to agricultural producers; and

"(E) improved coordination of regional planning for increased food production.

"(2) RURAL DEVELOPMENT.—Support for rural development efforts designed to increase rural employment opportunities, enhance the quality of rural life, and retard rural-to-urban migration, including programs that provide access to land and necessary assistance to small producers and cooperatives.

"(3) COMMUNITY-BASED AGRO-INDUSTRIES.—Support for locally owned cooperative and other small- and medium-scale industries engaged in the processing of indigenous resources, including support for the establishment of a marketing network to facilitate intraregional trade in food through programs that incorporate or serve small producers.

"(4) FINANCIAL RESOURCES FOR SMALL- AND MEDIUM-SIZED FARM AND MANUFACTURING ENTERPRISES.—Provision of financial resources to small- and medium-sized farm and manufacturing enterprises through—

"(A) the creation and capitalization of appropriate financial mechanisms; and

"(B) measures to encourage Caribbean commercial banks and credit unions to provide risk capital to such enterprises.

"(5) EXPANSION OF TOURISM.—Support for the expansion of tourism in the Caribbean through its fuller integration into the local economy, by providing assistance—

"(A) to appropriate governmental and nongovernmental regional organizations for the design and coordination of programs for—

"(i) the expansion of the use of local goods and services;

"(ii) the development and implementation of a marketing strategy for tourism in the Caribbean; and

"(iii) the promotion of investments in tourism integrated with the local economy; and

"(B) for training and utilizing local expertise in hotel and restaurant management and other necessary skills.

"(6) REGIONAL INTEGRATION.—Support for regional integration and institutions, including seeking the cooperation of other donor countries in promoting regional development in the Caribbean and including support for—

"(A) efforts to regionalize and coordinate activities and prevent the proliferation and duplication of regional bureaucracies;

"(B) the efforts of governmental and nongovernmental regional institutions to strengthen the infrastructure necessary to promote regional commercial activity and economic and social development;

"(C) regional research institutes; and

"(D) inter-island transportation and communication links, roads, and port facilities.

"(7) UPGRADING TECHNICAL AND MANAGERIAL SKILLS.—Support for efforts of the countries of the Caribbean to upgrade the technical and managerial skills of their people.

"(8) NATURAL RESOURCE BASE.—Promoting those small-scale, affordable, agricultural and industrial methods suited to local environmental, resource, and climatic conditions, and supporting such actions as the establishment of protected areas, the development of environmental curricula, and programs of public education and dialogue designed to sustain and enhance the renewable natural resource base of the Caribbean.

"(9) PRIVATE SECTOR DEVELOPMENT.—Support for the diversification and promotion of Caribbean exports, for investments in the Caribbean that are appropriate to the needs of each country and of the region, and for the strengthening of private sector institutions, that would continue to promote private sector-led growth through increased trade and investment and that recognizes each country's economic comparative advantage; and support for the strengthening of community-based enterprises that would promote economic growth that benefits the majority of the people of the region.

"(10) DEMOCRATIC DEVELOPMENT AND THE ADMINISTRATION OF JUSTICE.—Support to broaden and deepen democratic institutions and values in the Caribbean and to assist countries in areas such as the administration of justice where requested by the recipient governments.

"(11) ACCESS TO HUMAN SERVICES AND ASSISTANCE FOR HUMAN RESOURCES DEVELOPMENT.—Support for the provision of basic services to the citizens of the Caribbean using, as appropriate, governmental and nongovernmental entities, with emphasis on sustainability of service delivery in areas such as basic education, primary health care, child survival, family planing, and prevention and control of acquired immune deficiency syndrome (AIDS).

"SEC. 5304. PROTECTION OF WORKER RIGHTS.

"In considering whether to provide assistance under this Act to the government of any country in the Caribbean and in considering how much assistance to allocate to such government, the President shall take into account whether such government has failed to extend, protect, and enforce internationally recognized worker rights for workers in that country (including workers within any designated zone) and, if so, whether such government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancement in providing internationally recognized worker rights throughout the country (including in any designated zone).

"SEC. 5305. PROTECTION OF PUBLIC HEALTH.

"The administering agency should not provide any assistance, directly or indirectly, for the use of any chemical or other substance in a country in the Caribbean if—

"(1) that use is not permitted under laws of that country relating to protection of public health, or

"(2) that use would not be permitted in the United States under laws of the United States relating to protection of public health.

"SEC. 5306. SUPPORT FOR WOMEN'S ROLE IN DEVELOPMENT.

"In providing assistance to the Caribbean, the administering agency should place emphasis on ensuring the active participation of Caribbean women in the development process, particularly through—

"(1) the promotion of greater access by women to productive resources and services, such as land, credit, and markets;

"(2) programs that respond to and support women's domestic needs and activities, including the strengthening of community-based education, health, and childcare programs and other critical social services identified by poor women; and

"(3) the involvement of Caribbean women in research on the factors that contribute to their economically vulnerable situation and in programs that address these factors.

"SEC. 5307. CONSULTATION.

"In implementation of assistance policies, programs, and projects in the Caribbean, the administering agency should take into account the perspectives of the rural and urban poor through consultation with Caribbean organizations that work with the poor and that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in the Caribbean, as described in section 5302(a). The administering agency should reflect the results of such consultations in its annual planning documents.

"SEC. 5308. DEFINITION OF CARIBBEAN.

"As used in this chapter, the term 'Caribbean' includes Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

"CHAPTER 4—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 5401. ESTABLISHMENT OF ENTERPRISE FOR THE AMERICAS FACILITY.

"There is hereby established in the Department of the Treasury the Enterprise for the Americas Facility (hereinafter in this chapter referred to as the 'Facility').

"SEC. 5402. PURPOSE OF INITIATIVE AND THE FACILITY.

"The purpose of the Enterprise for the Americas Initiative is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community based conservation and sustainable use of the environment. The Facility will support these objectives through administration of debt reduction operations for those countries that meet investment reforms and other policy conditions.

"SEC. 5403. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

"(a) REQUIREMENTS.—To be eligible for benefits under the Facility, a country must—

"(1) be a Latin American or Caribbean country;

"(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Environment for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Environment for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

"(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

"SEC. 5404. REDUCTION OF CERTAIN DEBT.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1990, as a result of concessional loans made by the United States pursuant to the former authorities of part I of this Act (or predecessor foreign economic assistance legislation) to a country eligible for benefits under the Facility.

"(2) LIMITATIONS.—

"(A) FEDERAL CREDIT REFORM ACT REQUIREMENTS.—The authority of this section may be exercised only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

"(B) LIMITATION OF AUTHORIZATION AMOUNTS.—Notwithstanding section 505(a) of the Federal Credit Reform Act of 1990, the following amounts only are authorized to be appropriated for such costs for fiscal years 1992 and 1993: $242,356,000 for fiscal year 1992 and $224,644,000 for fiscal year 1993.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(4) DEFINITION.—Hereinafter in this chapter, a country with respect to which the authority of paragraph (1) is exercised is referred to as the beneficiary country.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of January 1, 1990.

"(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the administering agency of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection; and at the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the administering agency shall make an adjustment in its accounts to reflect the debt reduction.

"SEC. 5405. REPAYMENT OF PRINCIPAL.

"(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 5404(b) shall be repaid in United States dollars.

"(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

"SEC. 5406. INTEREST ON NEW OBLIGATIONS.

"(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 5404(b) shall bear interest at a concessional rate.

"(b) CURRENCY OF PAYMENT; DEPOSITS.—

"(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Environmental Framework Agreement under section 5408, interest shall be paid in the local currency of the beneficiary country and deposited in the Environmental Fund provided for in section 5407(a). Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 5407(d). Such local currencies shall be used for the purposes specified in the Environmental Framework Agreement.

"(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Environmental Framework Agreement under section 5408, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

"(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Environmental Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Environmental Fund established for that beneficiary country pursuant to section 5407(a).

"SEC. 5407. ESTABLISHMENT OF, DEPOSITS INTO, AND DISBURSEMENTS FROM ENVIRONMENTAL FUNDS.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into an Environmental Framework Agreement under section 5408 shall be required to establish an Enterprise

for the Americas Environmental Fund (referred to in this chapter as the 'Environmental Fund') to receive payments in local currency pursuant to section 5406(b)(1).

"(b) DEPOSITS.—Local currencies deposited in an Environmental Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(c) INVESTMENT.—Deposits made in an Environmental Fund shall be invested until disbursed. Any return on such investment may be retained by the Environmental Fund, without deposit in the Treasury of the United States and without further appropriation by Congress.

"(d) DISBURSEMENTS.—Funds in an Environmental Fund shall be disbursed only pursuant to an Environmental Framework Agreement under section 5408.

"SEC. 5408. ENVIRONMENTAL FRAMEWORK AGREEMENTS.

"(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an agreement (referred to in this chapter as an 'Environmental Framework Agreement') with any country eligible for benefits under the Facility concerning the operation and use of the Environmental Fund for that country. In the negotiation of such agreements, the Secretary shall consult with the Environment for the Americas Board in accordance with section 5409.

"(b) CONTENTS OF AGREEMENTS.—An Environmental Framework Agreement with an eligible country shall—

"(1) require that country to establish an Environmental Fund;

"(2) require that country to make interest payments under section 5406(b)(1) into an Environmental Fund;

"(3) require that country to make prompt disbursements from the Environmental Fund to the administering body described in subsection (c);

"(4) when appropriate, seek to maintain the value of the local currency resources of the Environmental Fund in terms of United States dollars;

"(5) specify, in accordance with subsection (d), the purposes for which the fund may be used; and

"(6) contain reasonable provisions for the enforcement of the terms of the agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Funds disbursed from the Environmental Fund in each beneficiary country shall be administered by a body constituted under the laws of that country (referred to in this chapter as the 'administering body').

"(2) COMPOSITION.—The administering body shall consist of—

"(A) one or more individuals nominated by the United States Government,

"(B) one or more individuals nominated by the government of the beneficiary country, and

"(C) individuals who represent a broad range of environmental nongovernmental organizations of the beneficiary country, local community development nongovernmental organizations of the beneficiary country, and scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

"(3) RESPONSIBILITIES.—The administering body—

"(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Environmental Framework Agreement, consistent with subsection (d);

"(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

"(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

"(D) shall present an annual program for review each year by the Environment for the Americas Board; and

"(E) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Environment for the Americas Board and to the government of the beneficiary country.

"(d) ELIGIBLE ACTIVITIES.—Grants from an Environmental Fund shall be used for activities that link the conservation and sustainable use of natural resources with local community development.

"(e) GRANT RECIPIENTS.—Grants made from an Environmental Fund shall be made to—

"(1) nongovernmental environmental, conservation, development, and indigenous peoples organizations of the beneficiary country;

"(2) other appropriate local or regional entities; and

"(3) in exceptional circumstances, the government of the beneficiary country.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Environmental Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"SEC. 5409. ENVIRONMENT FOR THE AMERICAS BOARD.

"(a) ESTABLISHMENT.—There is hereby established an Environment for the Americas Board (hereinafter in this chapter referred to as the 'Board').

"(b) MEMBERSHIP.—The Board shall be composed of 11 members appointed by the President as follows:

"(1) 6 officers or employees of the United States Government.

"(2) 5 individuals who are representatives of private nongovernmental environmental, scientific, or academic organizations that have experience and expertise in Latin America and the Caribbean.

The chair of the Board shall be designated by the President from among the members of the Board appointed pursuant to paragraph (1).

"(c) RESPONSIBILITIES.—The Board shall—

"(1) advise the Secretary of State on the negotiations of Environmental Framework Agreements;

"(2) ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Environmental Fund; and

"(3) review the programs, operations, and fiscal audits of each administering body.

"(d) SUPPLEMENTAL VIEWS IN ANNUAL REPORT ON THE FACILITY.—Each member of the Board shall be entitled to receive a copy of any report to be transmitted to the Congress pursuant to section 5411(a) at least 14 days before the report is to be so transmitted, to have 14 days within which to prepare and submit supplemental views for inclusion in such report, and to have those views included in the report when it is so transmitted.

"SEC. 5410. ENCOURAGING MULTILATERAL DEBT DONATIONS.

"(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of a beneficiary country whose debt is reduced under this chapter to provide debt reduction to such country.

"(b) ENCOURAGING DONATIONS FROM PRIVATE CREDITORS.—The President shall make every effort to ensure that Environmental Funds established pursuant to section 5407 are able to receive donations from private and public entities and from private creditors of the beneficiary country.

"SEC. 5411. ANNUAL REPORT TO AND CONSULTATIONS WITH CONGRESS.

"(a) ANNUAL REPORT.—Not later than December 31 of each year, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate an annual report on the operation of the Facility for the prior fiscal year.

"(b) CONSULTATIONS.—The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility and the eligibility of countries for benefits under the Facility.

"CHAPTER 5—OTHER REGION AND COUNTRY SPECIFIC PROVISIONS

"SEC. 5501. UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN.

"(a) CONGRESSIONAL FINDINGS REGARDING CYPRUS SETTLEMENT.—The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress finds that—

"(1) a just settlement on Cyprus must provide reasonable guarantees that the rights of all the people of Cyprus, including displaced persons, are fully protected;

"(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

"(3) serious negotiations, under United Nations auspices, will be necessary to achieve agreement on, and implementation of, constitutional and territorial arrangements critical to a just settlement on Cyprus; and

"(4) the continued deployment of a United Nations peacekeeping force is essential to reducing tensions and maintaining the cease fire on Cyprus.

"(b) PRINCIPLES GOVERNING UNITED STATES POLICY.—United States policy regarding Cyprus, Greece, and Turkey shall be directed toward maintaining a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

"(1) The United States shall actively support the resolution of differences through negotiations, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

"(2) The United States will accord full support and high priority to efforts, including those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

"(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Defense Trade and Export Control Act, and the agreements under which those defense articles were furnished.

"(4) The United States will furnish military assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength between Greece and Turkey is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

"(5) Any agreement entered into by the United States for the sale or other provision of any defense article on the United States Munitions List (established pursuant to section 38 of the Defense Trade and Export Control Act) shall expressly state that the article is being provided by the United States only with the understanding that the article will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to the Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this paragraph.

"(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

"(c) REVIEW AND REPORTS REGARDING PROGRESS TOWARD A SETTLEMENT.—

"(1) CONTINUAL REVIEW.—Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly.

"(2) PERIODIC REPORTS.—To facilitate such a review, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, every 120 days, a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such reports shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

"SEC. 5502. STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY IN LATIN AMERICA AND THE CARIBBEAN.

"(a) REQUIREMENT FOR CIVILIAN APPROVAL OF MILITARY ASSISTANCE AND SALES.—In order to strengthen the control of democratically elected civilian governments over the armed forces, military assistance and sales may be delivered to the armed forces of any country in Latin America and the Caribbean having such a civilian government only with the prior approval of that country's head of government.

"(b) DEFINITION OF MILITARY ASSISTANCE AND SALES.—For purposes of this section, the term 'military assistance and sales' means—

"(1) foreign military financing assistance;

"(2) deliveries under the special drawdown authority of section 2901;

"(3) transfers of excess defense articles under chapter 3 of title II;

"(4) international military education and training; and

"(5) defense articles, defense services, and design and construction services sold under the Defense Trade and Export Control Act.

"SEC. 5503. SOUTH AFRICA.

"(a) FOSTERING A JUST SOCIETY AND HELPING VICTIMS OF APARTHEID IN SOUTH AFRICA.—

"(1) EARMARK OF FUNDS.—Of the amounts made available to carry out section 1221 of this Act, $1,500,000 each fiscal year shall be used for grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.

"(2) PRIORITIES.—In making grants under this subsection, priority should be given to those organizations or activities which contribute, directly or indirectly, to promoting a just society, to aiding victims of official discrimination, and to the nonviolent elimination of apartheid. Priority should also be given to those organizations whose programs and activities evidence community support.

"(3) POLITICAL PRISONERS; NONVIOLENT RESISTANCE TO APARTHEID.—Of the funds made available to carry out this subsection each fiscal year, not less than $500,000 shall be used for—

"(A) direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners; and

"(B) support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies.

"(4) LIMITATIONS.—Grants may be made under this subsection only for organizations whose character and membership reflect the objective of a majority of South Africans for an end to the apartheid system of separate development and for interracial cooperation and justice. Grants may not be made under this subsection to governmental institutions or organizations or to organizations financed or controlled by the Government of South Africa.

"(b) ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—

"(1) ASSISTANCE AUTHORIZED.—Up to $40,000,000 of the funds made available each fiscal year for economic support assistance, assistance from the Development Fund for Africa, and development assistance shall be available for assistance for disadvantaged South Africans, notwithstanding any other provision of law.

"(2) ACTIVITIES TO BE SUPPORTED.—Assistance under this subsection shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on nonracial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise and alternative education and community development programs.

"(3) LIMITATION.—Assistance furnished pursuant to this subsection may not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. This paragraph does not prohibit programs which award scholarships to students who choose to attend South African-supported institutions and which are otherwise consistent with this subsection.

"(c) SOUTH AFRICAN NONGOVERNMENTAL ORGANIZATIONS.—

"(1) CERTAIN ORGANIZATIONS TO BE GIVEN PRIORITY.—In providing assistance described in paragraph (2) for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served.

"(2) ASSISTANCE PROGRAMS COVERED.—Paragraph (1) applies with respect to economic support assistance, assistance from the Development Fund for Africa, and development assistance, including assistance under this section or section 1221.

"SEC. 5504. ASSISTANCE FOR PAKISTAN.

"(a) STATEMENT OF POLICY.—The Congress recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress also recognizes that the United States and Pakistan have many shared interests in the Asian subcontinent, including the achievement of a final political settlement in Afghanistan, narcotics control, nuclear nonproliferation, and democracy. The preservation of democracy in Pakistan is essential for the maintenance of political stability in Pakistan and for close, longlasting ties between Pakistan and the United States. One of the primary purposes of United States assistance for Pakistan is to support and sustain democracy. Therefore, the maintenance of a democratic government in Pakistan, in which the military forces are subordinate to the appropriate civilian authorities, is essential for the continuation of United States assistance to Pakistan.

"(b) REAFFIRMATION OF 1959 AGREEMENT.—The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

"(c) PROVISION OF DEFENSE ARTICLES.—The United States shall continue to take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used solely for defensive purposes or for the other nonaggressive purposes specified in section 3(c)(5) of the Defense Trade and Export Control Act.

"(d) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201(a)(5) of this Act with respect to paragraph (1) of section 6206 at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exercise the waiver authority of this subsection unless a certification under subsection (e) of this section is in effect, and (notwithstanding the effective date specified in section 1101 of the International Cooperation Act of 1991) may not exercise the waiver authority of subsection (d) of section 620E (as in effect prior to that date) unless a certification under subsection (e) of that section is in effect.

"(e) ANNUAL CERTIFICATION.—No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

"(f) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (g)—

"(1) unless a certification under section 620E(e) of this Act (as in effect prior to the effective date specified in section 1101 of the International Cooperation Act of 1991) is in effect on September 30, 1991, no funds may be allocated for fiscal year 1992 for assistance to Pakistan, or for the sale or transfer of defense articles or defense services to Pakistan, under this Act or any other Act; and

"(2) unless a certification under subsection (e) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to Pakistan, or for the sale or transfer of defense articles or defense services to Pakistan.

"(g) IF A CERTIFICATION MADE.—If a certification under subsection (e) is made in a fiscal year after the prohibition in subsection (f) applies, funds for assistance, sales, or transfers described in subsection (f) may be allocated for Pakistan pursuant to the reprogramming provisions of section 6304 of this Act or pursuant to a subsequent appropriation Act.

"SEC. 5505. ASSISTANCE FOR CUBA.

"(a) PRESENT GOVERNMENT.—Assistance may not be furnished under this Act to the present government of Cuba.

"(b) EXPROPRIATION CLAIMS OF UNITED STATES PERSONS.—Except as may be deemed necessary by the President in the interest of the United States, assistance may not be furnished under this Act to any government of Cuba until the President determines that such government has taken appropriate steps, according to international law standards, to return to United States citizens and to entities not less than 50 percent beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for, property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.".

SEC. 502. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in subparagraph (A), by striking out "five" and insert in lieu thereof "six"; and

(2) in subparagraph (B), by striking out "four" and inserting in lieu thereof "five".

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, the gentleman from Michigan [Mr. BROOMFIELD] and I offer amendments en bloc which have been made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en block is as follows:

Amendments en bloc offered by Mr. FASCELL:

Offered by Mr. MCHUGH of New York:

On p. 88, lines 6 and 7, strike "$40,000,000" in both places and insert "$70,000,000" in both places; and on p. 88, line 10, strike "$100,000,000" and insert "$70,000,000".

Offered by Mr. TORRICELLI of New Jersey:

Page 91, after line 3, insert the following:

"Subchapter C—Appropriate Technology International

"SEC. 1731. APPROPRIATE TECHNOLOGY INTERNATIONAL.

"(a) ELIGIBILITY AS A PVO.—Appropriate Technology International qualifies along with any cooperative development organization for development assistance funds made available for United States private voluntary organizations.

"(b) ADDITIONAL FUNDING.—In addition to the $3,000,000 made available to Appropriate Technology International under its cooperative agreement with the Agency for International Development, $2,000,000 of the funds made available for economic support assistance for fiscal year 1992 shall be provided to Appropriate Technology International to enable it to emphasize large-scale replication of successful projects and partnerships with major development and financial institutions.

Offered by Mr. TORRICELLI of New Jersey:

Page 64, line 6, strike out "and" and insert in lieu thereof "or"; and line 18, strike out "(a)" and insert in lieu thereof "(b)".

Offered by Mr. TORRICELLI of New Jersey:

Page 63, line 14, after "and" insert the following: "that, as of the time of the cash transfer under this chapter,".

Offered by Mr. BEREUTER of Nebraska:

Page 62, line 11, delete "Country" and insert the following: "recipient government".

Offered by Mr. DORGAN of North Dakota:

Page 17, line 16, after "issues," insert "policies concerning the furnishing of foreign military financing assistance.".

Offered by Mr. BROOMFIELD of Michigan:

On page 171, strike out the word "supervision" in line 14 and insert in lieu thereof the word "monitoring".

Offered by Mr. BROOMFIELD of Michigan:

On page 128, insert the following new section after line 2:

"SEC. 2208. COMMITMENT OF PRIOR-YEAR GRANT FINANCING.

"If the President at any time notifies the Congress that no further sales will be made pursuant to the Defense Trade and Export Control Act after the date of such notification to a specified country under circumstances then prevailing, any uncommitted funds allocated for such country that, prior to the effective date set forth in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or section 23 of the Arms Export Control Act for the purpose of financing sales under the Arms Export Control Act may be committed to finance sales under the Defense Trade and Export Control Act to other eligible countries, subject to 15-day advance notification to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

Offered by Mr. HALL of Ohio:

Page 214, line 8, strike the period and insert the following:

, that—

(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

Offered by Mr. DORGAN of North Dakota:

Page 107, after line 4, insert the following:

"(e) POLICY REGARDING CONSISTENCY WITH ACHIEVEMENT OF ECONOMIC ASSISTANCE OBJECTIVES.—Military assistance should not be provided to a country under this title if such assistance would hinder the achievement of the four basic objectives set forth in section 1102 of promoting sustainable economic growth, sustainable resource management, poverty alleviation, and democracy.

Hoyer amendemnt as modified:

On page 214, line 4, insert new finding (11) and redesignate previous finding (11) as (12)

(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information, on an annual basis, on the sale and transfer of major defense equipment, particularly to the Middle East and Persian Gulf region; and

Page 214, line 3, strike "and" after the semicolon.

Offered by Mr. FEIGHAN of Ohio:

Page 293, line 16, strike out "March" and insert in lieu thereof "April".

Page 294, beginning in line 10, strike out "the matters identified in section 4402(b)(2)." and insert in lieu thereof the following:

the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

Offered by Mr. FASCELL of Florida:

Page 360, strike out lines 3 through 7 and insert in lieu thereof the following:

"SEC. 5401. ENTERPRISE FOR THE AMERICAS FACILITY AND ENVIRONMENT FOR THE AMERICAS BOARD.

"As used in this chapter—

"(1) the term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954; and

"(2) the term 'Environment for the Americas Board' or 'Board' means the board established by section 610 of that Act.

Page 360, line 8, strike out "OF INITIATIVE AND THE FACILITY"; beginning in line 9, strike out "the Enterprise for the Americas Initiative" and insert in lieu thereof "this chapter"; and line 17, after "operations" insert "under this chapter".

Page 360, line 22, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 367, line 2, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 370, strike out line 15 and all that follows through line 3 on page 371; page 371, line 4, strike out "(c)" and insert in lieu thereof "(a)"; line 4, before "Board" insert "Envi-

ronment for the Americas"; line 6, after "Agreements" insert "pursuant to section 5408"; line 19, after "Fund" insert "established pursuant to this chapter"; line 22, strike out "(d)" and insert in lieu thereof "(b)"; lines 22 and 23, strike "ON THE FACILITY"; line 25, strike out "section 5411(a)" and insert in lieu thereof "section 614 of the Agricultural Trade Development and Assistance Act of 1954"; and page 372, line 2, after "views" insert "with respect to the implementation of this chapter".

Page 372, strike out lines 5 through 24 and insert in lieu thereof the following:

"SEC. 5410. CONSULTATIONS WITH THE CONGRESS.

Page 373, line 1, strike out "(b) CONSULTATIONS.—"; line 3, after "Facility" insert "under this chapter"; and line 4, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 385, line 11, before the semicolon, insert the following:

and by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government".

Offered by Mr. LAGOMARSINO of California:

(Page 553, line 21 & 22)

Section 808, Subsection (a), paragraph (7) after "American University of Beirut" strike the word "and" and insert "," in lieu thereof. Following "Beirut University College" insert ", and International College"

Offered by Mr. DREIER of California:

Page 601, strike out line 12 and all that follows through line 14 on page 602 and insert in lieu thereof the following:

(1) FINDINGS.—The Congress finds that—

(A) the free flow of information is an essential component of modern commerce and is conducive to economic development and democracy;

(B) the United States is the world's leader in the development of commercial information systems for business and government;

(C) the United States business community urgently requires thorough and timely information on enterprises, government commercial policies, and investment opportunities in the emerging democracies of Eastern Europe; and

(D) it is the policy of the United States to favor efficient private sector delivery of government services where possible.

(2) PRIVATIZATION OF INFORMATION SYSTEM.—Section 602 (22 U.S.C. 5462) is amended to read as follows:

"SEC. 602. EASTERN EUROPEAN BUSINESS INFORMATION CENTER SYSTEM.

"(a) PURPOSE.—The President shall encourage and facilitate United States investment in East European business enterprises through the widest possible dissemination of commercial and legal information on Eastern Europe to the United States business community through United States information services companies.

"(b) ESTABLISHMENT.—Under the direction of the President, the SEED Program coordinator shall promptly establish a Eastern Europe Business Information Center System, employing the services and expertise of a United States information services company. This system shall work in coordination with the Foreign Commercial Service and the governments of eligible East European countries.

"(c) FUNCTIONS.—

"(1) IN GENERAL.—The Eastern European Business Information Center System shall serve as a central clearinghouse and data resource service for United States and Eastern European businesses, providing information relating to—

"(A) business conditions in Eastern Europe;

"(B) legal and regulatory information needed by United States companies seeking to do business in Eastern Europe;

"(C) investment and trade opportunities for United States companies resulting from the region's efforts to privatize state enterprises and move toward a market economy; and

"(D) voluntary assistance efforts to countries in Eastern Europe.

"(2) PRIVATE ENTERPRISE DEVELOPMENT.—The Eastern European Business Information Center System shall be established, among other purposes—

"(A) to encourage United States information companies to invest in and develop an infrastructure for gathering and disseminating information on business in Eastern Europe to the United States business community;

"(B) to provide the widest possible dissemination of such information to United States business interested in investment in Eastern European private enterprises and in trade with such enterprises;

"(C) to encourage the submission of economically sound business proposals to the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, and similar entities that may be established; and

"(D) to encourage the involvement of United States businesses in voluntary development efforts in Eastern Europe.

"(d) INFORMATION ACCESS.—The Eastern European Business Information Center System shall be made accessible to the widest possible number of United States businesses through commercially available on-line information services. The SEED Program coordinator shall also endeavor to make information accessible to local enterprises in Eastern Europe seeking trade with or investment from the United States through the establishment of Eastern European trade information centers in Budapest, Hungary; Warsaw, Poland; and such other locations as the coordinator may designate.

"(e) REQUIREMENT FOR PRIVATE MATCHING FUNDING.—Funds made available to carry out this section may be provided to a United States company on a grant or contract basis for use in carrying out functions under this section only if that company, in carrying out those functions, uses either its own funds or other funds derived from nongovernment sources in an amount not less than twice the amount of the grant or contract.

"(f) FUNDING.—The Secretary of Commerce may use up to $500,000 of the funds appropriated for the International Trade Administration for each of the fiscal years 1992 and 1993 to carry out this section.".

Page 602, line 15, after "602" insert ", as amended by paragraph (2) of this subsection,"; and line 17, strike out "(d)" and insert in lieu thereof "(g)".

Page 604, in the text following line 7, after "Center" insert "System".

Offered by Mr. DREIER of California:

Page 611, after line 22, insert the following:

SEC. 852. TASK FORCE ON REGULATORY REFORM.

(a) FINDINGS.—The Congress finds that—

(1) American businesses and private voluntary organizations have complained publicly that the Agency for International Development's applications and requirements are "unnecessarily complicated and enormously time-consuming"; and

(2) the Agency's regulations and the lengthy application process discouraged many organizations from applying for funding, and have delayed the implementation and approval of programs for Eastern Europe that could further the transition to a market economy.

(b) TASK FORCE TO REFORM THE APPLICATION PROCESS FOR UNITED STATES ASSISTANCE TO EASTERN EUROPE.—

(1) ESTABLISHMENT AND FUNCTIONS.—The Administrator of the Agency for International Development shall establish a task force to review, and recommend revisions to, the Agency's regulations governing the application process for private voluntary organizations and businesses to receive funding from the Agency for activities relating to Eastern Europe. The task force shall have 5 members appointed by the Administrator, as follows:

(A) 2 officials from the Agency for International Development.

(B) 1 representative of private voluntary organizations.

(C) 1 representative of the United States business community.

(D) 1 individual who is a representative of either private voluntary organizations or the United States business community.

(2) REPORT AND IMPLEMENTATION.—The task force shall report the results of its review and its recommendations for revisions to such regulations to the Administrator, who shall implement those recommendations within 1 year after the date of enactment of this Act.

Offered by Mr. BROOMFIELD of Michigan:

Page 622, after line 5, insert the following:

Section 869.

SITUATION IN ALBANIA

It is the sense of the Congress that—

(1) the United States should encourage Albania in its efforts to open its society to Western ideas and ideals;

(2) in order to maintain the progress toward democracy that has already occurred and to encourage and support further progress, the United States should provide assistance for democratic institution-building in Albania, including the development of programs concerning the rule of law, the political process, local government, public administration, and social progress; and

(3) The United States also should provide medical and humanitarian assistance for the Albanian people.

Offered by Mr. OWENS OF UTAH:

Page 622, after line 5, insert the following:

SEC. 869. NAGORNO-KARABAKH CRISIS.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Soviet Union and Government of the Azerbaijan Republic have dramatically escalated their attacks against civilian Armenians in Nagorno-Karabakh, Azerbaijan, and Armenia itself;

(2) the Government of the Soviet Union has refused Armenia's request to convene a special session of the Supreme Soviet of the Union of Soviet Socialist Republics to resolve the Nagorno-Karabakh crisis;

(3) Soviet and Azerbaijani forces have destroyed Armenian villages and depopulated Armenian areas in and around Nagorno-Karabakh in violation of internationally recognized human rights; and

(4) armed militia threaten stability and peace in Armenia, Nagorno-Karabakh, and Azerbaijan.

(b) CONGRESSIONAL DECLARATION OF POLICY.—The Congress—

(1) condemns the attacks on innocent children, women, and men in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

(2) condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and southern borders;

(3) calls for the end of the blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of Soviet forces newly deployed for the purpose of intimidation;

(4) calls for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

(5) reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics, by expressing its deep concern about any Soviet action of retribution, intimidate, or leverage against those republics and regions which have chosen to seek the fulfillment of their political aspirations; and

(6) calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes.

Offered by Mr. CAMPBELL of California, as modified:

Page 568, after line 14, insert the following:

SEC. 818. SAUDI POLICY TOWARD ISRAEL.

(a) FINDINGS.—The Congress finds that—

(1) Saudi Arabia has a long record of supporting Arab war efforts against Israel;

(2) Saudi Arabia possesses CSS-2 missiles that are capable of reaching Israel with a chemical, nuclear, or conventional warhead;

(3) one of the wealthiest Arab nations in the Middle East, Saudi Arabia has played a signficant role in enforcing the Arab economic boycott of Israel;

(4) The Saudi government has financially supported Palestinian groups that have engaged in terrorist acts against Israel and Western nations;

(5) Saudi Arabia has not publicly and explicity recognized Israel's right to exist; and

(6) Saudi Arabia has refused to engage in direct bilateral peace negotiations with Israel.

(b) POLICY DECLARATIONS.—It is the sense of the Congress that—

(1) Saudi Arabia remains a threat to the State of Israel; and

(2) it should be the policy of the United States to encourage the Saudi government of recognize unequivocally Israel's right to exist as a sovereign nation within secure and recognized borders, to end the economic boycott of Israel, and to agree to negotiate directly with the state of Israel.

Offered by Mr. SMITH of Florida:

Page 555, after line 9, insert the following:

(e) CONGRESSIONAL REVIEW OF SHIPMENTS.—If the President submits a report under subsection (d), the President shall notify the appropriate congressional committees, in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961, at least 15 days before any defense articles are shipped to Lebanon, or any defense services are delivered to Lebanon, pursuant to such report.

Offered by Mr. SOLARZ of New York:

Page 645, insert the following after line 15:

SEC. 911. POLICY TOWARD THE FUTURE OF TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) although peace has prevailed in the Taiwan Strait for the past decade, on June 4, 1989, the Government of the People's Republic of China showed its willingness to use force against the Chinese people who were demonstrating peacefully for democracy; and

(2) in the Taiwan Relations Act, the United States made clear that its decision to enter into diplomatic relations with the People's Republic of China rested upon the expectation that the future of Taiwan would be determined by peaceful means.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the future of Taiwan should be settled peacefully, free from coercion, and in a manner acceptable to the people on Taiwan; and

(2) good relations between the United States and the People's Republic of China depend upon the willingness of the Chinese authorities to refrain from the use of the threat of force in resolving Taiwan's future.

Offered by Mr. WISE of West Virginia:

Page 645, after line 15, insert the following:

SEC. 911. ECONOMIC COOPERATION WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) an interdependent relationship exists among the economies of the United States, Japan, and other world nations;

(2) the United States and Japan are the two world leaders in terms of both gross national product and in providing financial assistance to developing nations;

(3) cooperation between the United States and Japan continues to grow in the areas of trade, investment, finance, diplomacy, and defense;

(4) in the growing economic competition between the United States and Japan, tensions arise that threaten the natural ties between the two nations; and

(5) the United States and Japan both have significant scientific research and technological skills which can benefit each other and the world.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that the Secretary of State should initiate discussions with the Government of Japan to increase scientific research, medical technology, infrastructure development, agriculture, telecommunications, environmental protection, and other areas beneficial to the United States and Japan as well as other nations in order to improve the quality of life worldwide and foster cooperation between the United States and Japan.

Offered by Mr. SOLOMON of New York:

Page 645, after line 15:

Insert the following new section:

SEC. 911. MEMBERSHIP OF THE REPUBLIC OF KOREA IN THE UNITED NATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the Republic of Korea has applied for admission as a member state of the United Nations;

(2) the goals of the United Nations, which include the peaceful resolution of conflicts, will be enhanced if the Republic of Korea is admitted as a member state;

(3) the United States has a special interest in supporting the Republic of Korea, a faithful and valued ally, in this endeavor, owing to the fact that more than 50,000 Americans died in the defense of the Republic of Korea's liberty and independence during the Korean conflict of 1950 to 1953; and

(4) the issue of peace on the Korean peninsula has a particular relevance to the United Nations because a United Nations Command is still in place to assist in the defense of the Republic of Korea against aggression.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should actively support the application of the Republic of Korea for * * *

Offered by Mr. KOSTMAYER of Pennsylvania:

On page 645, after line 15, insert the following section, and renumber the successive sections accordingly:

SEC. 911. SENSE OF THE CONGRESS REGARDING ALLEGATIONS OF COERCIVE ABORTION IN CHINA.

It is the sense of the Congress that the People's Republic of China should be subject to export controls or other economic sanctions until the President certifies to the Congress that the Chinese Government is not engaged in a program of coercive abortion or involuntary sterilization.

Offered by Mr. MCCURDY of Oklahoma:

Page 669, strike out line 11 and all that follows through line 2 on page 670 (section 1021) and insert in lieu thereof the following:

SEC. 1021. ANGOLA.

It is the sense of the Congress that—

(1) The Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (UNITA) should be commended for successfully reaching an agreement (the Estoril Accords signed on May 31, 1991) to end the conflict in Angola and to establish a process designed to lead to free and fair elections in Angola; and

(2) the United States should formulate and implement, as soon as practicable, a program of economic and humanitarian assistance under the Foreign Assistance Act of 1961 to support implementation of the Estoril Accords.

Offered by Mr. DREIER of California:

Page 669, line 12, insert "(a) STATEMENTS OF POLICY CONCERNING THE ANGOLAN CONFLICT.—" before "It".

Page 670, after line 2, insert the following:

(b) MINE CLEARING OPERATIONS IN ANGOLA.—

(1) AUTHORIZATION.—Not withstanding section 1243 of the Foreign Assistance Act of 1961, the President is authorized for the fiscal years 1992 and 1993 to use funds (other than earmarked funds) made available for economic support assistance and foreign military financing assistance, for mine clearing operations in Angola.

(2) CONTRACTS.—Should any assistance be provided to carry out paragraph (1), the Congress urges the President to use other than competitive procedures in order to expedite the procurement of services and to limit the eligibility for contracts to United States persons.

(3) REPORT.—Not more than 180 days after the date of the enactment of this Act, the President shall notify the appropriate congressional committees of any plans for using the authority under this subsection and the status of any assistance for mine clearing operations in Angola.

Offered by Mr. SOLOMON of New York, as modified:

Page 670, strike line 18 and all that follows through page 672, line 16, and insert in lieu thereof the following:

(a) FINDINGS.—The Congress finds that—

(1) thirty years of civil war, recurring cycles of drought, widespread and systematic abuses of basic human rights by the regime of Mengistu Haile Mariam, and the destructive political, economic, and social policies of the Mengistu regime have left the Ethiopian state in a condition of profound crisis and internal disarray; and

(2) without a transition to a fully representative government committed to peaceful resolution of Ethiopia's internal wars, there will be no end to Ethiopia's deep social crisis, no prospects for a transition to stability, growth, and liberty in Ethiopia, and minimal hope that the Horn of Africa will reverse the spread of devastating internal wars

that have created massive human dislocation across the region.

(b) STATEMENT OF POLICY.—The Congress—

(1) believes the demise of the regime in Ethiopia headed by Mengistu Haile Mariam represents the first important step toward realizing the hope of reconciliation and reconstruction in that country;

(2) commends those American officials and envoys who were instrumental in facilitating the success of "Operation Solomon", the swift and safe airlift of 14,000 Ethiopian Jews to Israel;

(3) supports efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future;

(4) calls upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of international relief and emergency humanitarian assistance throughout the country;

(5) calls upon the authorities in Eritrea to open the ports of Mitsiwa and Aseb with all deliberate speed and to permit the restoration of commerce through those ports, as well as the use of those ports in the delivery and distribution of emergency humanitarian assistance to Eritrea and to Ethiopia as a whole;

(6) urges all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly based, that accommodates all appropriate points of view, that respects basic human rights, and that is committed to a process of reform leading to the writing of a Constitution and the establishment of a representative government;

(7) favors the resumption of economic assistance to Ethiopia for development and reconstruction in the event that there is a permanent cease-fire, clear progress toward a democratic and fully representative government, protection of basic human rights, and implementation of economic reforms; and

(8) urges the President to continue active diplomatic efforts on behalf of reconciliation and reconstruction in Ethiopia.

Page 672, line 17, redesignate section "(b)" as section "(c)";

Line 21, strike "resolve its internal wars", and insert in lieu of: "establish a democratic and fully representative government"

Line 24, redesignate section "(c)" as section "(d)"

Offered by Mr. MCGRATH of New York:

At the appropriate place, insert the following new section—

Sense of the Congress concerning the outbreak of neo-Nazi video games in Europe.

It is the sense of the House of Representatives that the degree of anti-Semitism and hatred found in video games glorifying the Holocaust is so profound that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the production, sales, and distribution of "KZ Manager," "Aryan Test," and other similar neo-Nazi video software.

Offered by Mr. FASCELL of Florida, as a modification of the amendment printed in the RECORD of June 11, 1991, by Mr. KANJORSKI of Pennsylvania:

Page 128, strike out line 5 and all that follows through line 22 on page 143 (sections 2301, 2302, and 2303) and insert in lieu thereof the following:

"SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), the President may transfer to—

"(1) those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure,

"(2) to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance, and

"(3) those countries which received foreign military financing assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,

such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such excess defense articles may be transferred without cost to the recipient countries.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer excess defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on military readiness of the United States.

"(d) WAIVER OR REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—Excess defense articles shall be made available under this section consistent with the United States policy, established in section 5501, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1991, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

"(i) the amount of foreign military financing assistance provided for Turkey, to

"(ii) the amount of foreign military financing assistance provided for Greece.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'made available' means a good faith offer is made by the United States to furnish the excess defense articles to a country; and

"(2) the term 'member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.

"(g) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2302. MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer to a country—

"(1) which is a major illicit drug producing country in Latin America and the Caribbean,

"(2) which has a democratic government, and

"(3) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights,

such excess defense articles as may be necessary to carry out subsection (b).

"(b) PURPOSE.—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces and local law enforcement agencies of an eligible country in Latin America and the Caribbean to participate in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

"(c) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a) only if that country ensures that those excess defense articles will be used primarily in support of antinarcotics activities.

"(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4102, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(e) DOLLAR LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a) in any fiscal year may not exceed $10,000,000.

"(f) CONDITIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(g) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) NOTIFICATION TO CONGRESS.—

"(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 30 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the value of the excess defense articles to be transferred.

"(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(h) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.

"(a) AUTHORITY TO TRANSFER NONLETHAL EXCESS DEFENSE ARTICLES AND SMALL ARMS.—Subject to the limitations in this section, the President may transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act (as in effect immediately prior to the effective date specified in section 1101 of the International Cooperation Act of 1991).

"(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 2301(b).

"(c) TRANSPORTATION.—The Department of Defense is authorized to transport nonlethal excess defense articles and small arms made available pursuant to this section without charge on a space available basis.

"(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles and small arms under this section or the transportation of such articles as authorized by subsection (c).

"(e) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer nonlethal excess defense articles and small arms under this section until 30 days after he has notified the Committee on Appropriations of each House of Congress of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States. Transfers under this section shall also be subject to the notification requirements of section 2301(c) of this Act.

"SEC. 2304. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom foreign military financing assistance was justified for the fiscal year in which the transfer is authorized, such nonlethal excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer nonlethal excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the nonlethal excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives 15 days before transferring nonlethal excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains.—

"(1) a list of the countries to which the President has furnished nonlethal excess defense articles under the authority of this section; and

"(2) the value of the excess nonlethal defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of nonlethal excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of nonlethal excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the nonlethal excess defense articles are being provided to that country under the authority of this section.

"(g) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

Page 144, line 1, strike out "2304" and insert in lieu thereof "2305"; line 9, after "2301" and insert "or 2304"; line 15, strike out "2305" and insert in lieu thereof "2506"; and line 21, after "2303," insert "section 2304,".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in these amendments en bloc, we have a variety of amendments to various titles which have been agreed to by both sides of the aisle and the proponents and the opponents of amendments. The amendments are offered by both Republican and Democrat members.

A summary of the en bloc amendments is as follows:

TITLE I

1. McHugh: Increases disaster assistance;
2. Torricelli: Regarding ATI (as modified);
3. Torricelli: Two technical corrections to cargo preference;
4. Bereuter: A technical correction to cargo preference; and
5. Dorgan: Adds FMF to policies President should coordinate when allocating resources.

TITLE II

6. Dorgan: Policy on coordination of economic and security aid;
7. Broomfield: Reallocation authority for FMF (modified);
8. Broomfield: End use monitoring;
9. Hall: Adds humanitarian assistance to findings on arms transfers;
10. Hoyer: CSCE and information exchange on arms transfers (modified).

TITLE IV

11. Feighan: Technical corrections on narcotics report.

TITLE V

12. de la Garza: Enterprise for the Americas (modified).

TITLE VIII

13. Lagomarsino: International College in Lebanon;
14. Dreier: East European Business Information Center;
15. Dreier: Task force to reform application process for aid to Eastern Europe;
16. Broomfield: Sense of Congress on democracy in Albania;
17. Owens: Sense of Congress regarding Nagorno-Karabakh;
18. Campbell: Sense of Congress regarding Saudi policy towards Israel;
19. Smith of Florida: Notification requirement for military asssitance to Lebanon.

TITLE IX

20. Solarz: Sense of Congress regarding the future of Taiwan;
21. Wise: Sense of Congress regarding increased cooperation with Japan;
22. Solomon: Sense of Congress regarding membership of Korea in the U.N.;
23. Kostmayer: Sense of Congress on coercive abortions in PRC.

TITLE X

24. McCurdy: Sense of Congress on Angola;
25. Solomon: Ethiopia policy language;
26. Dreier: Mine clearing in Angola (modified).

TITLE XI

27. McGrath: Sense of Congress regarding neo-Nazi video games.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, with respect to No. 8, the end use monitoring, I have been asked to enter into a colloquy with the gentleman.

I would like to ask, with respect to the amendment en bloc which deletes in subsection (a)(3) in section 2922 the word "supervision" and inserts in lieu thereof the word "monitoring," let me state the following: The committee has changed the word "supervision" to "monitoring" in section 2922(a)(3) of Title II of the Foreign Assistance Act of 1961, as amended by this bill, to emphasize the Secretary of Defense's primary responsibility of ensuring that countries acquiring U.S.-origin defense equipment under this title are using it only for the purposes authorized and have not made an unauthorized transfer of this equipment to a third country or party.

The committee in this regard primarily is concerned with major defense equipment in serviceable condition. The Secretary of Defense will take whatever measures are appropriate to fulfill this responsibility, which includes in addition to the usual intelligence collection efforts, periodic discussions with recipient countries' officials regarding the recipient countries' use and disposition of concerned equipment.

May I ask the gentleman from Florida, the committee chairman, is the gentleman in accord with the purpose of this amendment as I have stated?

Mr. FASCELL. Mr. Chairman, I will state to the gentleman that I am in accord with the purposes of the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume. I want to comment on one of the en bloc amendments.

Mr. Chairman, I support the en bloc amendment which includes a legislative initiative that I authored.

My amendment is simple and to the point. It encourages our Government to provide assistance to Albania in the form of institution-building assistance as well as medical and humanitarian aid. We must do all we can to ensure that the flame of democracy continues to burn bright in that once-closed society.

In 1989, many nations in Eastern Europe set sail on the rising tide of democracy. Albania, however, was the last bastion of the old Communist order to resist those winds of change.

Last year, Albania began to emerge from its isolation from the world and took significant steps toward a more democratic political system. Many political prisoners were released, and independent political parties and labor unions were formed.

Although the elections held earlier this year fell short of the standards that we accept, they were the first multiparty elections in Albania in 40 years.

As the stronghold of freedom and democracy, America must do more to help the prodemocracy groups in Albania that are desperately short of resources. We should assist these groups that are committed to political pluralism and respect for human rights so that they can successfully campaign in the upcoming elections. I am confident that in the future these democratic organizations will protect the fundamental freedoms of all Albanians, to include the minorities in that country.

In recognition of the special friendship that Albania has with the United States, we should also provide medical and humanitarian assistance for the Albanian people who are experiencing difficulties during this period of great change in their country.

I encourage my colleagues to support the en bloc amendment.

□ 1820

Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, let me engage the gentleman from Michigan in a colloquy.

Mr. Chairman, we had one amendment listed in this en bloc group on which we still need a technical change before it is in final form.

I think, rather than creating confusion, what we should do is withdraw that amendment now and offer it in another en bloc group later on as soon as everybody is satisfied from a technical standpoint that the amendment is correct.

Mr. Chairman, I will identify the one to which I am referring. It is the last amendment in the en bloc, otherwise known as the Kanjorski amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, that is fine.

Mr. FASCELL. If that is agreeable to the gentleman.

Mr. BROOMFIELD. It is agreeable.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to withdraw that amendment from the en bloc and to proceed with the others.

The CHAIRMAN pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the distinguished ranking member for yielding me this time. I rise in strong support of the en bloc amendments.

Mr. Chairman, I have two amendments that are being considered in this group specifically dealing with Eastern Europe. One of the things that has struck us is that the people of Eastern Europe are really very, very hard-pressed to comprehend many things which those of us in the Western World take for granted. One of the things that is most frustrating is that trying to emerge from decades of totalitarianism to a market-oriented economy where freedom and democracy exist is something that frankly is not very easy.

We have been trying to do a number of things with our policy here in the United States to encourage that expansion and opportunity.

The two amendments that I have in this en bloc package do just that. Our colleague from Ohio, Mr. McEWEN, has enjoyed saying in the past what we need to do for our friends in Eastern and Central Europe is not provide them with $4 billion in U.S. aid but rather $40 billion in U.S. business private sector investment.

We have had some problems in the past with something known as CIMS, the commerce information management systems, which is a computer network designed to link up business opportunities in Eastern Europe with businesses here in the United States.

Mr. Chairman, I have been approached by a number of organizations which have an interest in providing the opportunity for this kind of computer networking to take place in the private sector. The General Accounting Office did a study which showed that there are more than a few problems with having the Department of Commerce and our Government involved with this computer networking. If we can do it at a substantially lower cost by way of the private sector, it seems to me that that is the route for us to take. That is included in this amendment. I think it is something that is very worthwhile. I appreciate the fact that the chairman and the ranking member have included it.

I am joined in cosponsoring this amendment by my colleagues from Ohio, Mr. HALL and Mr. McEWEN, and look forward to its passage.

Mr. Chairman, the second amendment deals with improvement of the grant application process for the AID Program. Of course, we want to do everything we can to have the private sector involved here. The amendment that I have is very simple. It requires the administrator of AID to appoint a five-member task force with representatives from AID or State and three from private organizations, to look at the grants process. I think it is very worthwhile.

As we look at the challenge that we face in trying to assist the emerging democracies, it is essential that we do everything we possibly can to encourage that by way of the private sector.

Mr. Chairman, I thank my friend for yielding me this time and look forward to the en bloc amendments.

Mr. Chairman, I rise today in support of the en bloc group of amendments. I appreciate the work of Chairman FASCELL and Mr. BROOMFIELD in accommodating a number of us who have an interest in this bill.

I would like to briefly explain two amendments which I submitted which have been included in this en bloc. Both deal with the transition to freedom taking place in the former Communist satellites of Central and Eastern Europe.

The nations of this region are only now beginning to shed the dark and bitter shackles of Communist totalitarianism; only now beginning to escape from the the economic misery wrought by 40 years of economic myopia; only now beginning to comprehend the devastation to the environment and to the health of millions of unsuspecting Poles, Hungarians, Czechs, Slovaks, and Bulgarians.

These people realize that the path to economic and political freedom will be rocky. But they are willing to bear these burdens. They are willing to sacrifice short-term comfort for long-term rewards.

The people of America want to help their friends and colleagues in Eastern and Central Europe. We in the Congress want to help as well. But I think we need to be careful that our programs are based on a thoughtful understanding of the successes and failures of past programs.

One of my colleagues, the gentleman from Ohio [Mr. MCEWEN], is fond of saying that Eastern Europe doesn't need $4 billion in U.S. Government handouts, rather, it needs $40 billion in U.S. private investment. He's right.

But without accurate information about economic progress, investment laws, or environmental restrictions, few American businesses can be expected to take the plunge.

Unfortunately, this information just simply doesn't exist in an easily accessible form. What our companies need is an on-line computer network which would provide this data to any CEO with a PC on his or her desk. The Department of Commerce is in the initial planning stages for just such a system.

The problem is that Commerce has a rather poor track record in running computer network systems. In fact, the Department has spent more than 11 years and $35 million on an almost identical system called the commerce information management system, or CIMS. CIMS has been a complete disaster.

The GAO and Price-Waterhouse both recently completed studies of CIMS, and their verdict was startling. According to GAO, officials at the two most important overseas CIMS locations, Paris and London, were "unable to make any retrievals from the central data base." In Tokyo, "95 percent of the records had not been updated in 4 years." They concluded by saying that they "question whether CIMS is a viable approach for meeting U.S. information needs. Much of the information processing and distribution could be met by private computer networks."

We simply cannot afford to make the same mistake in Central and Eastern Europe. As a result, TONY HALL and I drafted an amendment requiring the Commerce Department to take the GAO's advice: Let the private sector work with you on this project.

This will expedite establishment of a system. It will streamline the U.S. bureaucracy. It will save the taxpayer dollars over the long run. And it will allow Commerce Department officials overseas to focus on other important tasks.

We pledge to work with the Department to ensure adequate funding for this program and look forward to working with the committee to oversee its growth.

I also want to say a few words about my second amendment.

During the past several weeks, a number of PVO's and other nonprofit groups have come to me to complain about problems with AID's grant application process. One umbrella organization of groups working in Poland and Hungary told me that the process has discouraged many potential volunteers and is "unnecessarily complicated and enormously time-consuming."

This is an ongoing problem. AID has ignored repeated requests from the private sector and Congress to do something about this system. The time has come for action.

My amendment is simple. It requires the Administrator of AID to appoint a five-member task force—two representatives from AID or State, and three from private organizations. The task force would be given a year to come up with a program for streamlining the system, and the Administrator would be required to implement their recommendations.

To my friends in the administration who complain about this provision, I say this: The changes in Central Europe are too important to be endangered by an unresponsive and inflexible U.S. aid policy. We have a once-in-a-lifetime opportunity to transform Central Europe, and in the same breath, influence change in Latin America, Africa, and elsewhere.

It is essential that worthy projects not be delayed or discouraged without reason. I hope that this amendment will communicate this sentiment.

I want to thank my colleagues, TONY HALL and BOB MCEWEN, for working with me on the computer network amendment. I also want to thank the committee for working with me on these provisions, and I look forward to following their implementation in the coming months.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in opposition to the Dreier amendment to privatize the Department of Commerce's Eastern European Business Information Center, based upon the following arguments:

In January 1990, the Commerce Department established the Eastern European Business Information Center [EEBIC] to respond to American companies' greatly increased need for information on doing business in Eastern Europe.

The Center was mandated by Congress under the Support for East European Democracy [SEED] Act of 1989.

EEBIC has been highly successful.

Since its opening the Center has responded to more than 40,000 requests for information from U.S. firms—particularly small- and medium-sized companies.

EEBIC now has a data base of more than 7,000 American companies serious about pursuing business opportunities in the region, and this year will build comparable data bases of East European companies.

EEBIC has produced a broad variety of written materials on each country and on opportunities for U.S. trade and investment in specific sectors.

Responding to the American business community's many requests for information on doing business in Eastern Europe—as EEBIC currently does—is an essential part of the Commerce mandate. EEBIC combines the resources of our foreign commercial officers, industry experts, and country specialists to provide detailed counseling services.

Even if a parallel organization were to be created in the private sector, American companies would continue to come to Commerce with their business questions and information needs.

During the past year Commerce has used its unique capabilities, including EEBIC resources, to pull together information from its country and industry specialists and its overseas offices to influence major business decisions in Eastern Europe.

These efforts have produced results:

The United States has become the largest foreign investor in Hungary, with investments totaling more than $700 million.

Trade and investment in Poland has recently surged. Just last week, U.S. companies concluded four major export and investment transactions, valued at more than half a billion dollars.

Commerce involvement in trade promotion events in Eastern Europe increased dramatically from just 7 events in 1989 to over 70 last year. For instance, Commerce's first time ever participation in Poland's Polagra agro-industrial fair last year produced over $100 million in United States contracts. The 1991 calendar is equally ambitious.

Several Commerce programs for Eastern Europe, including EEBIC, are part of a bold new $46 million, 4-year program to involve U.S. business in the transformation of Eastern Europe to free market economies. This program, the American Business and Private Sector Development Initiative for Eastern Europe, was announced in March by President Bush.

Mr. Chairman, I submit that setting up a private sector, duplicate organization would take at least a year and could never replicate the variety of services offered by the existing EEBIC structure. Accordingly, I urge my colleagues to defeat the Dreier amendment.

Mr. BROOMFIELD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I am in support of these en bloc amendments. I had proposed an amendment, which I will not offer, which had been included, in part, in the en bloc amendments. It deals with the Commission on Security and Cooperation, the confidence and security-building measures that the CSCE has pursued consistent with basket 1 of the Helsinki Final Act.

Mr. Chairman, I want to commend the chairman of the Foreign Affairs committee, Mr. FASCELL, for this outstanding leadership on this bill. I also want to take particular note of the Fascell proposal calling for an arms transfers restraint policy for the Middle East and Persian Gulf region. It is a serious and commendable attempt to address regional instability and the continuing proliferation of weapons, both conventional and unconventional. It encompasses confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, cooperative verification measures, communication measures, advanced notification of military exercises, information exchanges, onsite inspections, and creation of a Mideast conflict prevention center—as appropriate means to implement an effective arms control regime.

I view this as a very constructive and promising plan to reduce the rate of international arms sales and transfers to the Middle East and gulf region. I fully support the proposal.

Still, the problem is complex and will not be solved easily; nor is it likely to be solved by one nation alone. Both buyers and sellers are spread across the globe, and one seller can quickly be replaced by another. The widespread nature of the trade, its economic importance to many supplier countries, including our own, and the legitimate need of countries to arm themselves make bans a long-term objective. It will be difficult to achieve, but that difficulty need not nor should it be reason or excuse for not putting forward proposals seeking that very objective. For to fail to address it is to concede the problem, and to condemn thousands or millions of civilians to violent deaths during the next conflict.

The difficulty, however, does not imply a shortage of multilateral steps we can take to slow transfers and to make the world community more aware of buildups as they occur. A centralized registry of arms sales and transfers will act as an early warning device of any buildup. The bill we are now considering seeks to have one established at the United Nations. Practically speaking, China may block the creation of such a registry. Having signed neither the Missile Technology Control Regime nor the Nuclear Nonproliferation Treaty, China has rather stepped up its arms promotions in recent weeks. It has shown little interest in nuclear or conventional arms control. But China's absence or reluctance need not be a bar either at the United Nations level or at other levels.

My language, which has been incorporated into the committee amendment, essentially builds upon the concept of a U.N. arms registry by calling for one within the Conference on Security and Cooperation in Europe [CSCE]. In the CSCE, we have a body containing nine of the top ten global arms suppliers—all but China.

The CSCE is ideally suited to make a contribution to increased information on arms transfers. Its military security arm has played a groundbreaking role in arms control before: The 1986 Stockholm Document was the first forum to negotiate a regime of nonrefusable inspections of conventional forces, thus paving the way for the INF regime. More recently, the participating States negotiated a groundbreaking annual exchange of military information. All participating States are required to provide information on conventional forces, equipment, budgets, weapon deployments, and exercise plans.

A requirement for disclosure of weapons sales and transfers could easily be added to this list. Moreover, a review mechanism for the information is already in place—meetings at the conflict prevention center, where States can be questioned on the information they have provided. Perhaps the arms buying motives of a State could be questioned before death and destruction on the scale we have seen in the gulf war results again.

The possibility of such an exchange has been raised at the conflict prevention center by Czechoslovakia and Poland. Czechoslovak Foreign Minister Jiri Dienstbier recently called for the CSCE to "Take measures in the field of registration and, later, control of the sale and transfer of conventional arms and equipment," although his country is one of the top ten arms-selling nations. The United States, in my opinion, should do no less.

Mr. Chairman, my language attempts to advance the timing of and improve access to information on arms sales and transfers. The CSCE deserves serious consideration because in it we have a forum with a proven record in confidence building, which contains all of the major arms sellers but China, and within which the new democracies and other countries have expressed interest in addessing arms sales and transfers. The CSCE would also be able to move forward promptly on this issue. And prompt action on this issue would demonstrate the concern of CSCE States, which provide the vast majority of the world's weapons and which have united to defeat their use in Kuwait, for preventing similar aggressions.

I have already proposed to the President as well as certain members of the arms control community, that the United States make such a proposal at the military negotiations currently taking place in Vienna. An information exchange at CSCE would be a small first step, but a concrete one, and one which would give Europe and the West the chance to show that they do not shrink from their responsibilities in the search for peace.

Mr. Chairman, my language calls on the President to do precisely that and I thank you for agreeing to accept it. And once again I want to commend and congratulate the Chairman for his exemplary leadership on an issue of such importance to all the nations of the world.

Mr. Chairman, at this time I would to enter into a brief colloquy with the Chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, my original amendment expressed the sense of Congress that the United States should introduce, during the ongoing negotiations on confidence and security building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information on the sale and transfer of major weapons and equipment systems. It is my understanding that the en bloc amendment includes this language and replaces "major weapons and equipment systems" with the term "major defense equipment." Is that correct?

□ 1830

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman from Maryland [Mr. HOYER] is quite correct, and let me add that I fully appreciate the gentleman's initiative. He is quite right in the fact that CSCE, particularly in Basic I, offers a real opportunity to expand on the efforts with regard to arrangements between governments in carrying out the policy of the United States, and I think the gentleman agrees with me that there will be more and more greater use of the CSCE process to this purpose.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Florida [Mr. FASCELL] for his comments.

Mr. Chairman, further questioning, my original amendment specifies that the U.S. proposal should include, among others: First, a requirement that participating States exchange annually information on sales and transfers of major weapons and equipment systems;

Second, a requirement that such information be exchanged in an agreed format to all other participating

States not later than December 15 of each year;

Third, a requirement that such information include information on any sale or transfer of major weapons and equipment systems (including any such sale or transfer of any participating State) and information regarding such sale or transfer that specifies the quantity and type of weapon or equipment that is the subject of such sale or transfer; the date of such sale or transfer; the location of such weapon or equipment prior to such sale or transfer; and the State or other party receiving such weapon or equipment; and

Fourth, a requirement that such information be discussed at the annual implementation assessment meeting at the CSCE Conflict Prevention Center.

In this regard, it is my understanding that these provisions are subsumed and included in the Committee's original recommendations in sections 242(c), 242(e)(1), and 242(e)(2). Is this correct?

Mr. FASCELL. Mr. Chairman, the gentleman from Maryland [Mr. HOYER] is absolutely correct, and the reason we subsumed that is because, not only of the gentleman's initiative, but we agree that the exchange of information in confidence-building measures is the greatest foundation upon which to make the kind of improvements that his commission is seeking to bring about.

So, Mr. Chairman, we are very pleased to include this as part of our proposal.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Florida [Mr. FASCELL] for his comments and for his clarification.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I want to thank the gentleman from Florida [Mr. FASCELL] and the gentleman from New York [Mr. SOLARZ] for including en bloc the amendment I have offered which is a sense of the Congress that the Government of the United States and the Government of Japan should explore ways of cooperation. These two nations give the largest amounts of foreign assistance in the world, they have the largest gross national products, the most powerful economies, and yet we engage in this competition that has built certain tensions. Certainly, through cooperation, we can improve some of our relationship and benefit the world. These projects, for instance, to be explored would include biomedical research, medical research, infrastructure development, agriculture, those things that the world itself can benefit from our collaboration.

Mr. Chairman, this came out of a conference, the Shimoda conference held in Tokyo in December in which many on both sides, American and Japanese, expressed a common desire to engage in this type of cooperation. Hopefully, this is the first step and we can send a signal that this Congress is interested in this cooperation, and I thank both the gentleman from New York [Mr. SOLARZ] and the gentleman from Florida [Mr. FASCELL] for including this.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Dreier-Hall amendment which will help American businesses invest in Eastern Europe. Our amendment will establish an Eastern European business information center to provide commercial and legal information that will help our businesses find opportunities in Eastern Europe.

Mr. Chairman, this amendment is good for our domestic firms, and good for the emerging economies in Eastern Europe. Our amendment will allow the Department of Commerce to contract, on a competitive basis, with one of our own companies to gather and make available computerized information about developing markets in Eastern Europe.

This information, Mr. Chairman, is crucial to developing markets overseas and facilitating positive trade relations with Eastern Europe. Under the system, information pertaining to local economics, tax and interest rates, legal matters, trade restrictions, investment laws, and environmental regulations will be rapidly available to our companies who are looking for opportunities. Our companies will be able to subscribe to an "on-line" system which will make this readily information available.

Mr. Chairman, the Department of Commerce has been trying to set up a computerized system like this for 11 years, and has been unsuccessful. The Hall-Dreier amendment allows the Department to provide $500,000 out of existing funds to one of our private companies to set up the system. That money must be matched by $1 million in private funds.

I commend my colleagues on the House Foreign Affairs Committee for excepting this amendment, and I urge my colleagues to support it.

Mr. KLUG. Mr. Chairman, I rise today in support of the provision in the en block amendment that was orginally offered by the gentleman from Maryland [Mr. HOYER]. The provision calls for the United States to propose an international exchange of information on the sale and transfer of major weapons systems at the conference on security and cooperation in Europe.

Mr. Chairman, the recent war in the Persian Gulf illustrates the devastating effect of the unchecked transfer of weapons around the world. It also illustrates the potential of multinational cooperation. The proposal put forth in this amendment would encourage an open exchange of information of the sale and transfer of weapons. This information will allow nations to accurately assess the arms supplies and equipment of aggressive, militant nations. This proposal will encourage accountability among suppliers and discourage the transfer of offensive arms to hostile nations.

The CSCE membership includes 9 of the top 10 weapons exporting nations. Bringing together as many of these exporting nations as possible is the key to an effective program. There is no incentive for any country to refrain from selling its weapons systems if they know that there are other suppliers who will sell the arms and pocket the profits. By making the sale and purchase of weapons a matter of record we will know who brokers—at any price—weapons of mass destruction. This proposal will encompass as many buyers and sellers of conventional, chemical and biological weapons as possible.

The United States must take the lead once again and use the CSCE forum to establish an arms control program that is based on open information and cooperation. Without multilateral cooperation we cannot control the global transfer of weapons and we will witness the same type of arms escalation that led to the war in the Persian Gulf.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Hall amendment on conventional arms control, and I thank Chairman FASCELL for folding this amendment into the en bloc amendment.

I was pleased to have had the opportunity to work with Chairman FASCELL on the many provisions of the Arms Transfer Restraint section of this bill. This section sets guidelines for controlling the sale of arms to the Middle East and Persian Gulf region, and encourages international cooperation in setting standards for these controls.

My amendment complements this section by expanding its provisions to apply to Third World countries, particularly the poorest of the poor. Just as our language in the bill identifies an urgent need for arms control transfers to the Middle East and the Persian Gulf region, my amendment identifies an equally urgent need to apply those same controls to the Third World.

Poor countries have people with nutritional needs, health needs, and other basic needs such as adequate education and living conditions. While not losing sight of security matters, I would like to see the United States encourage Third World countries to make a better quality of life a higher priority than a larger fighting force.

I have been pressing for conventional arms control for nearly a decade. It is now the task of Congress to roll back old, outdated policies of pushing highly destructive weapons, and look towards a policy of self-restraint and international cooperation in an effort to achieve peace and stability.

I commend my colleagues on the Foreign Affairs Committee for accepting this amendment, and I urge my colleagues to support it.

Mr. ANNUNZIO. Mr. Chairman, I rise today in support of an amendment to H.R. 2508, the foreign aid bill introduced by WAYNE OWENS of Utah.

This amendment, once adopted, will clearly define the opposition of this body to the brutal attacks launched by Soviet and Azerbaijani forces against Armenian villagers in Azerbaijan, Karabagh, and Armenia. These attacks, which continue to this day, have cost the lives of nearly 100 Armenian civilians, many of whom were elderly, and resulted in the depopulation of over 30 historically Armenian villages.

It is clear that the Soviets invasion is an attempt to punish the democratically elected Government of Armenia for opting for the path to eventual independence. In this effort the Soviet Government has found a willing ally in

the Communist leadership of Azerbaijan, which sees this as an opportunity to drive the Armenians from their borders and eventually depopulate Karabagh.

The use of calculated violence and terror as political tools simply does not represent an acceptable means of managing relations with the Republics. As the elected representatives of the American people, and especially now as we consider the prospects of extending assistance to the Soviet Union, we must condemn the aggression committed against these Armenian villagers. The amendment offered today, I believe will put the Soviet leadership on notice that violent efforts to suppress democracy and self-determination factor significantly in determining the nature of our future economic and political relations with Moscow.

This amendment is nearly identical to House Resolution 163 which was introduced earlier this month. I am a proud cosponsor of that resolution, as are 35 of my colleagues. On the Senate side, a similar bill, Senate Resolution 128, introduced by Senators CARL LEVIN and ROBERT DOLE, passed without objection on May 17.

As you can see, there is considerable support, both in this Chamber and in the Senate, for a statement of congressional policy on the Soviet aggression against the Armenian people. In passing this amendment, we will clearly and forcefully voice our opposition to the terrible violence committed against the Armenian people. In the interest of preventing a recurrence of such brutality in Armenia, or anywhere in the Soviet Union, I encourage my colleagues to support this amendment.

Mr. FASCELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

AMENDMENTS OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Does the gentleman from Illinois [Mr. HYDE] ask for unanimous consent to have his amendments considered en bloc?

Mr. FASCELL. Mr. Chairman, reserving the right to object I believe this caught the gentleman from New York [Mr. SOLARZ] a little bit by surprise.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, this is the amendment on Pakistan. I will explain it, but it will not take the gentleman from New York [Mr. SOLARZ] by surprise.

Mr. FASCELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to consideration of the amendments en bloc?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HYDE:

Page 382, line 10, strike "(1) IN GENERAL.—";

Page 382, line 17–18 strike the words", subject of paragrah (2) ";

Page 382, line 19, strike all through page 384, line 14;

Page 637, line 4, strike all through line 12;

Page 637, line 13, strike "(B)";

Page 637, line 17, insert a period after the word "Pacific" and strike all else through line 18.

Page 643, line 3, strike all through line 10;

Page 643, line 11, strike "(2)";

Page 643, line 14, insert a period after the word "Pacific" and strike all else through line 16.

Page 653, line 6, strike all through line 14;

Page 653, line 15, strike "(B)";

Page 653, line 19, insert a period after the word "Pacific" and strike all else through line 20.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to debate this for 20 minutes, 10 minutes on each side.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HYDE. Mr. Chairman, reserving the right to object. I have no objection to that, and the gentleman from New York [Mr. SOLARZ] has agreed to it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HYDE. Mr. Chairman, I ask unanimous consent that the debate on this amendment and amendments thereto be limited to 20 minutes, to be divided 10 minutes for the proponents, and 10 minutes for the opponents.

Mr. SOLARZ. Mr. Chairman, reserving the right to object, I thought I heard the Clerk say "amendments" plural. I was under the impression the gentleman was offering a single amendment.

Mr. HYDE. Mr. Chairman, I think the Clerk inadvertently lisped.

The CHAIRMAN pro tempore. Part of the gentleman's amendment goes to title IX.

Mr. HYDE. It is one amendment, through, Mr. Chairman.

Mr. SOLARZ. That is the amendment which has the effect of eliminating Pressler; burying it?

Mr. HYDE. Mr. Chairman, I would hope destroy or casting it into exterior darkness, oblivion.

Mr. SOLARZ. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The time for debate is limited to 20 minutes, 10 minutes for proponents, and 10 minutes for opponents.

Mr. HYDE. Mr. Chairman and my colleagues, this is a relatively simple amendment, and it is about Pakistan. There is in the law an amendment known as the Pressler amendment, and it only applies to one country on the globe, Pakistan. It is country-specific, and the Pressler amendment says that the President must certify that Pakistan, not India, not Israel, not China, but Pakistan does not have a nuclear device.

Now, if the President cannot certify that Pakistan does not have a nuclear device, all aid is cut off of any size, shape, description or type to that country, and I seek to eliminate the Pressler amendment from applying to Pakistan, the only country to which it applies, and I also seek to correct the bill which, having denied Pakistan any aid whatsoever, has taken the liberty of redistributing whatever they were going to get around the globe to various and sundry countries.

For example, Mr. Chairman, they have taken $21 million of United States assistance funds that would have gone to Pakistan, and the chairman, I guess, of the Asiatic Pacific Subcommittee has bestowed it on Burmese students, on Nepal, and the South Pacific region. There are $107 million that would have gone to Pakistan. That goes to Africa, and $50 million for voluntary contributions to international organizations which we have not been able to identify.

Now I want to point something out. Pakistan is an ally of our country. Pakistan sent two brigades to the front in Desert Storm. Pakistan has been host for 3 million Afghan refugees for many, many years. Pakistan sent troops to Korea when we were fighting there.

Pakistan is a friend of ours. Why do we treat her this way? Someone once said that our foreign policy is like a dog with a psychiatric condition. It barks at our friends and wags its tail at our enemies. Here is Pakistan, a good friend of ours, a Muslim country I might add, and it is not easy for a Muslim country to provide 10,000 troops to fight with us against a Muslim country in Desert Storm. Do we not give any credit to a country because of that?

□ 1840

Now, I am very concerned about nuclear proliferation. I do not want any more members of the nuclear club.

Do you know what we have now? We have five declared nuclear weapons states: the United States, the Soviet Union, Great Britain, France, and

China. There are four states, however, that are reportedly de facto nuclear weapons states: India, and I do not know what is de facto, if they have exploded their nuclear devices as long ago as 1974, Israel, Pakistan, and South Africa.

There are seven states that have taken significant steps toward the acquisition of a nuclear weapons capability: Argentina, Brazil, Iran, Iraq, Libya, North Korea, and Taiwan.

Mr. Chairman, I am very concerned about the proliferation of nuclear weapons. But why do we select a friend of ours, an ally that has expressed that friendship in many ways over many years, and say, "You do not get a dime's worth of aid because you may have a nuclear device?"

India, we would not think about it. Israel, we do not look. China, the Soviet Union, we are falling all over ourselves to see how we can get some aid to the Soviet Union. But Pakistan, you go outside. You are out.

I do not think that is a fair way. I do not think it is an intelligently honest way. I do not think it is a useful way to treat an ally.

So what this amendment does, it deletes that Pressler amendment. It leaves in place, I might add, lots of nuclear nonproliferation language. It does not say, "Go ahead and build your bomb." This amendment leaves intact section 6201(a)(5) and section 6206 of the bill. These provisions, which have the virtue of relating to every country, not just one country specific, provide general authority for the President to halt assistance to any nation which delivers or accepts nuclear technologies or weapons outside the norms of acceptable international guidelines.

Mr. Chairman, all I am saying is I am uncomfortable being a hypocrite. I am uncomfortable ignoring India, which has exploded one as long ago as 1974. I am uncomfortable as we give most-favored-nation status to China, which is a nuclear country, and as we look for ways to support the Soviet Union in its duress. Of course, I need say nothing about our aid to Israel, which has the bomb. But Pakistan, you are a pariah. You leave the auditorium.

Mr. Chairman, that makes us hypocritical. That makes us an ingrate to an ally that has indeed put itself on the line as host to millions of Afghan refugees, relieving the world of quite a job, and as supplying troops at Desert Storm and in Korea, and many other reasons.

Mr. Chairman, I say eliminate the Pressler amendment, treat Pakistan as we treat every other country in the world, and recapture these funds that have been so blissfully dispensed all over the globe back where they ought to be, to an ally and a friend, Pakistan.

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what is at stake in this amendment is not whether or not we like Pakistan, but our efforts to prevent Pakistan from acquiring nuclear weapons, as well as the viability of our international global nuclear nonproliferation policy.

Far from having singled out Pakistan for discriminatory treatment, the truth is that over the course of the last decade we have treated Pakistan very, very well. They have received between $5 billion and $6 billion in American military and economic assistance. Pakistan is the only country in South Asia that has received over 50 of our high-performance combat aircraft, the F-16. It is the only country in South Asia with which we have a bilateral defense commitment. So we have treated Pakistan very well.

But, for over a decade now, one of the major objectives in our foreign policy vis-a-vis Pakistan has been to prevent Pakistan from acquiring nuclear weapons. That was one of the major justifications for providing Pakistan with billions of dollars in American military assistance. The theory was that if we gave them this kind of aid, perhaps they would not feel the need to acquire nuclear weapons.

But in spite of our efforts to prevent them from getting nuclear weapons, Pakistan continued with its efforts. So a few years ago the Congress adopted the so-called Pressler amendment, which said no more aid to Pakistan unless the President certifies that Pakistan does not have a nuclear device, and the continuation of our aid will enhance the prospects for preventing them from acquiring a nuclear device.

Now the President is unable to submit a Pressler certification, because Pakistan has continued its efforts to acquire nuclear weapons. The last thing our country needs is an overt nuclear arms race on the subcontinent. If we give the green light for Pakistan to go ahead, then surely India will attempt to match it as well. Given the animosities and tensions which continue to exist in that part of the world, an area where India and Pakistan have already gone to war three times in the last four decades, and where another war cannot be ruled out, there would be a very real possibility of a nuclear conflict between those two countries, which could have catastrophic consequences, not just for them, but for us.

Mr. Chairman, if the Hyde amendment is adopted, it will mean that we have lost whatever chance we still have of inducing Pakistan to refrain from acquiring nuclear weapons. Whereas if we reject the Hyde amendment and they comply with the Pressler amendment, they stand to gain about one-quarter of $1 billion in American military and economic assistance. That ain't peanuts. It is a significant inducement.

Mr. Chairman, I believe it would be a tragedy if we abandoned the last best chance we have of preventing Pakistan from going nuclear, which is what would happen if the Hyde amendment is adopted.

But it is not just our efforts to prevent Pakistan from acquiring nuclear weapons which is at stake here. We just waged and won a war in the Persian Gulf, partly because we wanted to prevent Iraq from acquiring nuclear weapons. Now we are trying to get Iraq to comply with the cease-fire resolution, which obligates it to turn over its highly enriched uranium, which gives it the capacity to make nuclear weapons in the future.

Mr. Chairman, if we adopt the Hyde amendment, if we abandon our efforts to prevent Pakistan from acquiring nuclear weapons, what conclusions do you think that Saddam Hussein will reach in Baghdad? He will conclude that we are not really serious about attempting to prevent him from acquiring nuclear weapons as well, and our prospects for getting Iraq to comply with the cease-fire resolution and to turn over its highly enriched uranium will be greatly diminished.

Mr. Chairman, I think that we have a lot at stake here. Not just our efforts to prevent a nuclear arms race on the subcontinents, but our efforts to prevent the spread of nuclear weapons in the Persian Gulf.

Mr. Chairman, I would very strongly urge Members to reject the Hyde amendment, and to maintain our commitment to the prohibition of the spread of nuclear weapons elsewhere.

Finally, let me just say that the fact that we may not have succeeded in our efforts to prevent every country in the world that wants to get nuclear weapons from getting them, does not mean we should abandon our efforts to prevent any country which wants nuclear weapons from getting them. It cannot be in our interest to have Pakistan obtain nuclear weapons. The President and the administration do not want Pakistan to acquire nuclear weapons. Yet if this amendment is adopted, that is virtually a certainty.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I support this amendment, and I encourage my colleagues to do likewise.

The amendment is fair and brings coherence to our policy in that it proposes to treat a staunch ally, Pakistan, the same as every other country that has the potential to develop a nuclear explosive device.

However, it also continues to meet nuclear proliferation concerns. It leaves intact those provisions in H.R. 2508 that provide the President with authority to halt assistance to nations that engage in nuclear weapons proliferation outside acceptable international guidelines.

It also provides the administration the necessary flexibility to meet the challenges of the quickly changing international system while maintaining an appropriate executive-congressional role in foreign policy. This is something the administration has requested, and that the Foreign Affairs Committee has stated is among its goals.

I believe the amendment sends a necessary message to Pakistan that our bilateral relations are important and that we do not want a further deterioration in them.

The amendment says that the American people are committed to nuclear nonproliferation which is expressed through a consistent policy that treats every nation, including Pakistan, alike.

Finally, this amendment tells Pakistan that we seek to continue working together in resolving our differences, and that our relationship will not be constrained by arbitrary deadlines.

These are important reasons for supporting this amendment, Mr. Chairman, and I again urge our colleagues to vote for the Hyde amendment.

□ 1850

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Pakistan, or Pakistan, I am perhaps using the uncool pronunciation, but Pakistan is surrounded by nuclear countries: India, China, and the U.S.S.R. Now, to expect Pakistan to give up its move toward a nuclear weapon is to ask them to stand naked before some very predatory countries. That is unreasonable and it is not going to happen.

We are married to a theory called mutual assured destruction. We believe in a theory called mutual assured destruction. If we have bounds and the Soviet Union has bounds and we can each destroy each other, the balance of terror keeps the peace.

Why does not the mutual assured destruction work over in India and Pakistan and China and the Soviet Union? Why only Pakistan shall be naked in a nuclear sense surrounded by nuclear countries? Why do we take away assistance to Pakistan, an ally and a friend, and we give it to India?

I would like to ask the gentleman from New York to please tell me why we give almost $100 million to India, which has a nuclear device, and we are going to cut Pakistan off? Can the gentleman give me the answer to that? Is that not hypocritical?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SOLARZ. I do not think it is hypocritical. The aid we provide India, the $100 million to which the gentleman is referring, is titled to a PL-480. It is humanitarian food assistance to the most needy children in India, and it is utterly unrelated to any nuclear program that India may have.

Mr. HYDE. But we cannot give PL-480 to Pakistan under this Pressler amendment. So why the distinction?

Mr. SOLARZ. If the gentleman will continue to yield, the distinction arises, if I may say so to my friend from Illinois, because in the case of India, they had a nuclear explosion 17 years ago. Forces that were at war left the barn. Once it became clear Pakistan was trying to acquire a nuclear response, we made a judgment that it would not be in our interest to have a nuclear arms race in the subcontinent, and we are trying to prevent the Pakistani force from leaving the barn as well.

Mr. HYDE. The nuclear arms race has already left the starting gate. China has got it. India has got it. The Soviet Union has got it. The only one the gentleman wants to disarm is our friend, our ally that stood with us in Desert Storm, and the gentleman is going to cut them off. That is hypocritical. That is a double standard. That is unjust and unfair, and I hope Members will support my amendment.

Mr. Chairman, I reserve the balance of my time.

Can the Chair tell me how much time I have remaining?

The CHAIRMAN pro tempore (Mr. McDERMOTT). The gentleman from Illinois [Mr. HYDE] has 1 minute remaining.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Illinois. There is absolutely no reason why Pakistan and India should be treated differently, particularly since Pakistan has been a stalwart friend of the United States and an absolutely essential supporter of the Mujaheddin, and India has been just the opposite.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. FASCELL] the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, there is logic on both sides of this argument, and certainly the proliferation of forces out of the barn, as the gentleman from Illinois [Mr. HYDE] said. Nevertheless, there is a special reason for not supporting the Hyde amendment right now.

Pakistan is the only country that has violated all of the arrangements that we have tried to work with regard to nuclear safeguards, and they have done it over and over again. Here our administration has finally come to the point just recently where we terminated the aid.

Now, it might be wise to restore the aid. It might be wise to have some conditions. It may be wise to consider some regional arrangement. But I do not think it is wise to one day terminate the aid and then by legislative act put the aid back in again. I think that would be a very bad precedent, a very bad statement, and not good policy.

Mr. SOLARZ. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from New York [Mr. SOLARZ] has 3 minutes remaining.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DYMALLY], the distinguished chairman of the Subcommittee on Africa.

Mr. DYMALLY. Mr. Chairman, I rise in opposition to the amendment. This money from Pakistan has been wisely included in the development fund for Africa to help an area which is badly in need of it.

The arguments for not giving money to Pakistan have been well made by the gentleman from New York [Mr. SOLARZ], and the gentleman from Florida [Mr. FASCELL]. I just need to remind Members that this money is being well used because of Pakistan's failure to comply with our law. Therefore, I urge Members to reject this amendment.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

I just want to add how many of those African countries sent troops to Desert Storm to stand with us as we fought the Iraqis?

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. DYMALLY. Senegal did. An entire planeload of Senegalis died.

Mr. HYDE. Then let us give money to Senegal, but not to the rest of the continent. Pakistan will sign a nuclear nonproliferation treaty 2 seconds after India does it or simultaneously with India. It is hypocritical to cut off an ally that stood with us when the going was tough and to send money to other countries that did not lift a finger in Desert Storm.

Mr. Chairman, I yield back the balance of my time.

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume.

I am going to be very brief in conclusion. We are all grateful that Pakistan sent some troops to Saudi Arabia after the Iraqi invasion of Kuwait, but let us not go overboard in giving them credit for this. Not a single Pakistani soldier, not a single Pakistani plane actually participated in the liberation of Kuwait.

In fact, during the war the Pakistani Chief of Staff publicly called on Pakistan to tilt toward Iraq.

What is at stake with the Hyde amendment is a very simple proposition. If Members think it is perfectly OK for Pakistan to go nuclear and to get nuclear weapons, vote for the Hyde amendment. But if Members want to

take the last best chance we have of preventing Pakistan from getting nuclear weapons and inaugurating the nuclear arms race in the subcontinent, then vote against the Hyde amendment because that is really what is at stake here.

I urge the rejection of the Hyde amendment and the vindication of our historic nuclear nonproliferation policy in the subcontinent.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 252, not voting 28, as follows:

[Roll No. 151]

AYES—151

Alexander
Allard
Andrews (TX)
Anthony
Applegate
Archer
Armey
Baker
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Byron
Callahan
Campbell (CO)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Crane
Cunningham
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Fish
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goss
Gradison
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Henry
Herger
Hobson
Holloway
Houghton
Hubbard
Huckaby
Hunter
Hyde
Ireland
Jenkins
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Moran
Myers
Nichols
Nussle
Ortiz
Packard
Paxon
Pickle
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Rowland
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Shaw
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Wilson
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—252

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Camp
Cardin
Carper
Carr
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mink
Moakley
Mollohan
Moody
Morella
Morrison
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Richardson
Riggs
Rinaldo
Roemer
Ros-Lehtinen
Rose
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Swett
Swift
Synar
Tanner
Taylor (MS)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yatron

NOT VOTING—28

Ballenger
Boxer
Bustamante
Campbell (CA)
Chapman
Gephardt
Goodling
Hopkins
Horton
Jones (NC)
Kolter
Lehman (FL)
Martin
McDade
Mineta
Murtha
Olin
Oxley
Roe
Rostenkowski
Roukema
Sharp
Shuster
Smith (OR)
Studds
Valentine
Yates
Young (FL)

□ 1921

Mr. RICHARDSON and Mr. DE LA GARZA changed their vote from "aye" to "no."

Mr. LAUGHLIN and Mr. HANSEN changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. PANETTA). The Chair would inform the chairman and the ranking member on the committee that of the 8 hours of debate on the amendments, 2 hours and 3 minutes remain.

Mr. LEVINE of California. Mr. Chairman, I rise today to urge my colleagues to vote against the Smith amendment and to retain the integrity of the family planning provisions of the bill.

H.R. 2508 contains two major provisions to improve worldwide family planning efforts and to return the United States to its historic leadership role in population control. The first provision overturns the Mexico City policy. In 1984, the Mexico City policy was established to deny U.S. family planning funds to any nongovernmental organization which uses separate funding to perform abortions, refers for abortions, or gives women nondirective counseling and information about all legal pregnancy-related options. In a time when emerging democracies are looking to the United States for support of their efforts, the current administration shows an appalling lack of care. In Romania, the chilling consequences of Ceausecu's coercive child-bearing policies are painfully evident: Overflowing orphanages, soaring maternal and infant mortality rates, the women and children damaged by life-threatening and illegal abortions.

The Mexico City policy dicates that neither the U.N. Fund for Population Activities nor the International Planned Parenthood Federation are eligible to provide much needed birth control to women because these organizations provide abortion counseling, albeit with their own funds. Mr. Chairman, we have exported the U.S. horrendous gag rule. This misguided attempt to lower the number of abortions performed worldwide has done no such thing. Instead, it has served only to undermine and tie up family planning efforts abroad.

Congress has the chance today to overturn the unfair Mexico City policy, which the Foreign Affairs Committee voted to overturn when it considered this bill. I strongly support retaining the bill's language as it is written presently and restoring family planning efforts to where they were before the adoption of this outrageous policy in 1986.

The second provision in the bill that I speak in support of is restoring funding to the U.N. Fund for Population Assistance. UNFPA is one of the most respected and effective family planning and health care groups in the world. UNFPA has programs in 140 countries that provide funding and technical assistance for maternal and child health care, family planning, data collection, analysis, and research. It does not provide abortion services of support whatsoever. The Reagan administration, however, cut off all assistance to the UNFPA in 1986, alleging that UNFPA supported involuntary abortions and sterilizations in China. This action occurred despite contrary conclusions reached by U.S. Aid staff and despite UNFPA's explicit policy in opposition to any forced or coerced family planning or abortion.

Whatever occurred in China, the bill expressly prohibits from occurring again. The language in the bill will prevent the use of United States population funds in China and retain the language prohibiting the use of United States funds for abortion or involuntary sterilization anywhere in the world. Over the next few decades, over 3 billion people, most of whom are in Third World countries, will become of child-bearing age. Congress must renew its commitment to population control now, in order to alleviate the drastic problems caused by overpopulation. It can do so by refunding the UNFPA and by overturning Mexico City.

I urge my colleagues to join with me in defeating the Smith amendment.

Ms. SLAUGHTER of New York. Mr. Chairman, I rise today in strong support of the provisions of H.R. 2508 which earmark $15 million in technical assistance to the democratically elected local governments of the Baltic States and other Republics of the Soviet Union. This assistance, while relatively nominal, sends a clear and important message to the people of the Baltic States, Ukraine, and other Soviet Republics that the U.S. Congress supports their aspirations and that we are willing to help them in their democratic reforms.

The stipulation in the bill that United States aid may only be provided not to the central Soviet Government but, instead, directly to the freely elected governments of the Baltic States and other eligible Soviet Republics is crucial to the success of our objective. Indeed, this direct-aid stipulation was the key provision of House Joint Resolution 179, a strategy for expanding United States support for the Baltic States introduced by the Helsinki Commission with my full support and sponsorship.

As a member of the Helsinki Commission delegation which met with leaders of the Baltic States earlier this year, I was encouraged by the progress these emerging democracies have made toward economic independence. For example, in Riga, Latvian Prime Minister Godmanis spoke proudly of his government's developing economic policy which includes the adoption of a budget and the creation of a tax system.

Despite these great strides made in economic planning, the Latvian Government, like the Lithuanian and Estonian Governments, has much to learn. Direct communication and consultation with representatives from the United States are critical to the development and success of the democratic movement in the Baltic States. I am deeply gratified, then, that the House Foreign Affairs Committee endorsed in its report on H.R. 2508 initiatives which allow representatives from the legislatures of the Baltic States and other elected Soviet Governments to come to the United States and learn first-hand those aspects of the operations of our own Congress which could be usefully transferred to their legislatures.

I am proud to support H.R 2508 as an important first step in reshaping United States foreign policy in the Soviet Union to meet the challenges of a new world order built upon a growing global commitment to communication, democratization, and human rights.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] on behalf of himself and the gentleman from North Dakota [Mr. DORGAN] and the gentleman from Missouri [Mr. WHEAT]. I commend my colleagues from the Hunger Committee for their excellent and diligent work in introducing this important piece of legislation to promote a new approach to development assistance in the Horn of Africa. I'm proud to have been an original cosponsor of the Horn of Africa Recovery and Food Security Act of 1991, which was the basis for this amendment. It is urgently needed work.

The countries of the Horn of Africa—Ethiopia, Sudan, and Somalia—are among the poorest and most troubled countries in the world. War and famine have killed over 2 million people in Ethiopia and Somalia alone since 1985. It is an area, more than any other I know, that deserves the special attention and fresh approach that this amendment promotes.

The ongoing cycle of famine and war have long made the Horn a top priority of the Hunger Committee. The famine is now threatening over 10 million people in the Sudan—only half of the 21 million facing famine throughout the Horn—and the continuing turmoil in Somalia, all argue for greater attention to this region. We have held numerous hearings on these countries year after year, and I am extremely happy to see the initiative taken by my colleagues on the Horn.

In emphasizing the use of international private voluntary organizations and indigenous nongovernmental organizations to provide relief and development assistance, the legislation offers a positive new direction in U.S. foreign assistance. Working in partnership, these grassroots organizations offer the best hope for this war-torn region. With the recent events in the Horn, particularly the end of the 30-year war in Ethiopia, there is more hope for peaceful resolutions to some of the ongoing conflicts than there has been for years.

I commend my colleagues for offering this valuable piece of legislation which attempts to break the deadly cycle of war and poverty in the Horn. Until this happens, no true development or rehabilitation can occur. I urge my colleagues to support this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of the arms transfers restraint policy for the Middle East and Persian Gulf region which is included in the Foreign Assistance Act for fiscal years 1992 and 1993.

If we have learned anything from the mistakes of the past, it is that more weapons do not bring more peace and stability to the region. Rather than reverting to the practice of throwing arms at a region that is already armed to the teeth, we should take advantage of the spirit of international cooperation that characterized efforts in the Persian Gulf to enact a multilateral arms restraint regime now.

The Persian Gulf war demonstrated the dangers of arming ruthless dictators and unstable regimes with sophisticated weaponry capable of threatening our vital interests in the region. Saddam's possession of weapons of mass destruction and his ability to threaten the region's stability underscores the dire need to restrain the flow of arms to this region.

Following the successful allied effort to liberate Kuwait, I introduced legislation to curtail weapons sales to the Middle East, the Middle East Post-War Stability and Arms Restraint Act of 1991.

Much of my bill has been incorporated into the arms control provisions of this bill. The most significant of these provisions calls on the President to form a multilateral arms control regime to curtail the flow of arms to the region and establishes an indefinite multilateral moratorium on arms sales to the Middle East.

By demonstrating restraint, the United States can lead the way to form an effective and far-reaching arms supplier control regime which will greatly enhance the stability of the region without jeopardizing the legitimate security needs of our friends in the region.

I look forward to working with the administration to attain this goal. I am also encouraged by the President's plan to hold a conference next month of major powers to discuss limits on arms sales to the Middle East.

However, I am stupefied that just weeks after the President announced his Middle East arms control initiative, Defense Secretary Dick Cheney said that the United States would sell 20 Apache gunships to the United Arab Emirates and 8 to Bahrain. Just yesterday, Congress received notification of the Apache sale to UAE. I joined my colleagues in sponsoring a resolution of disapproval of this sale.

It is also my understanding that the White House is considering selling 337 M1–A1 tanks and approximately 160 Bradley fighting vehicles to the United Arab Emirates. Together with the Apache sale, this deal would total more than $2.1 billion.

This is a strange notion of arms control. Rather than introducing more sophisticated weaponry into the region, the United States should stand firm to its commitment to slow and then reverse arms transfers to the Middle East. This administration must understand that friendship and stability cannot be bought with arms.

Mr. Chairman, arms control is critical to ending the cycle of violence in the Middle East. American men and women should never have to go abroad again to defend American interests against tyrants armed with Western weapons and Western technology.

Ms. SLAUGHTER of New York. Mr. Chairman, 30 years of civil war in Guatemala have left more than 200,000 innocent civilians dead as a corrupt and ruthless army ran rampant through that Central American country. Under the ineffectual and repressive rule of former President Vinicio Cerezo such gross violations of human rights went largely uninvestigated and unprosecuted.

The election of a new President, Jorge Serrano, in January of this year brought new hope to the international community that the human rights situation would take a turn for the better. In the 5 months since Serrano's inauguration, there has been on abatement of violence or repression. The killings, torture, and disappearances persist, while the United States, to date, has offered no incentive to the Guatemalan Government to change its ways.

Today, we say things must change in Guatemala. The U.S. Congress insists that the violent crimes of the military be investigated and prosecuted. We insist that the intimidation and harassment of Guatemalan human rights organizations be ceased. We insist upon a greater respect in Guatemala for the rights of freedom

of the press, speech, assembly, and association. And we watch with great hope and concerned vigilance as the peace dialog between the Serrano government and the Guatemalan National Revolutionary Unity [URNG] launched in Mexico in April continues.

The International Cooperation Act of 1991—H.R. 2508—explicitly and commendably links United States aid to Guatemala to human rights and negotiated peace states Congress will not subsidize a terrorist military. We must be certain that our precious few foreign aid dollars are spent to promote democracy, development, and human rights. The provisions in H.R. 2508 which condition aid to Guatemala take an important and historic step toward accomplishing this goal.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of Congressman HALL's amendment on child survival activities and basic education programs. These funds will go a long way toward achieving the objectives set by the World Summit for Children in September.

Regrettably, millions of children die unnecessarily each year because of the extreme poverty that exists in developing countries. But as many as 50 million can be saved over the next decade if the simple preventive health measures that would be funded by this amendment's earmarks are implemented. Congressman HALL's amendment earmarks $275 million in fiscal year 1992 and $335 million in 1993 from development and economic aid accounts for child survival activities such as childhood vaccination and oral rehydration therapy. These programs have been shown to have been extremely effective in the past. This body must take the steps to commit America's share of the necessary resources to make universal childhood immunization a reality. There is no excuse for sitting idly by while millions of children in poverty-stricken countries are dying.

In addition, his amendment earmarks funds for basic education programs in developing countries. Illiteracy and lack of basic math skills have been a significant barrier to development and to the long-term programs that should be implemented if the world's poorest populations are to be able to help themselves. Again, we must pay particular attention to the children in these countries and to teacher training.

Lastly, this amendment would establish as U.S. policy the promotion of access to food and medical care as basic human rights, including protection of these rights during armed conflicts. In many war-torn countries, we have seen the increasingly prevalent practice of using food distribution and medical care as a weapon. Combatant forces have adopted the terrible practice of attacking aid shipments and withholding these basic needs of human life from civilians—including children—simply because these civilians live in territory controlled by the opposing force. These forces have exacerbated existing famines and in some cases created famine where none need exist. The United States cannot condone this practice and has a responsibility to make every effort to protect civilian access to food and medical care.

Mr. Chairman, I urge my colleagues to support the Hall en bloc amendment.

Mr. FASCELL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. JONES of Georgia) having assumed the chair, Mr. PANETTA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was called to Pennsylvania on emergency business and missed rollcall vote 151. Had I been present, however, I would have voted "nay."

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I missed the rollcall vote on the Hyde amendment to legislation authorizing U.S. foreign aid programs. I would like the RECORD to show that had I been present, I would have voted "aye" on rollcall No. 151.

MAKING IN ORDER DURING FURTHER CONSIDERATION OF H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991, POSTPONEMENT OF RECORDED VOTES AND REDUCTION OF TIME FOR VOTES ON AMENDMENTS

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2508, the Chairman of the Committee of the Whole be authorized to postpone recorded votes, if ordered, on any amendment to the bill until later that legislative day, and that he be authorized to reduce to a minimum of 5 minutes the period of time for recorded votes after the first vote in any series.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MAKING IN ORDER DURING FURTHER CONSIDERATION OF H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991, ONLY AMENDMENTS PRINTED IN CONGRESSIONAL RECORD ON OR BEFORE JUNE 12, 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 2508, under House Resolution 170, only those amendments to the bill printed in the CONGRESSIONAL RECORD on or before June 12, 1991, be in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2608, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-107) on the resolution (H. Res. 174) waiving certain points of order during consideration of the bill (H.R. 2608) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON H.R. 2621, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS, APPROPRIATIONS BILL, 1992

Mr. OBEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-108) on the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. EDWARDS of Oklahoma reserved all points of order on the bill.

REPORT ON H.R. 2622, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1992

Mr. OBEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102-109) on the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. WOLF reserved all points of order on the bill.

CONFERENCE REPORT ON S. 64, EDUCATION COUNCIL ACT OF 1991

Mr. KILDEE submitted the following conference report and statement on the

Senate bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-110)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Council Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING

Sec. 101. Short title.

Sec. 102. National Education Commission on Time and Learning.

TITLE II—NATIONAL WRITING PROJECT

Sec. 201. Findings.

Sec. 202. National Writing Project.

TITLE III—MISCELLANEOUS

PART A—CIVIC EDUCATION PROGRAM

Sec. 301. Instruction on the history and principles of democracy in the United States.

PART B—LAW-RELATED EDUCATION PROGRAM

Sec. 311. Amendment to law-related education program.

TITLE IV—NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

Sec. 401. Short title.

Sec. 402. Purpose and findings.

Sec. 403. Establishment.

Sec. 404. Duties.

Sec. 405. Reports.

Sec. 406. Membership.

Sec. 407. Director and staff; experts and consultants.

Sec. 408. Powers of Council.

Sec. 409. Federal Advisory Committee Act.

Sec. 410. Authorization of Appropriations.

Sec. 411. Termination.

TITLE I—NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING

SEC. 101. SHORT TITLE.

This title may be cited as the "National Education Commission on Time and Learning Act".

SEC. 102. NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING.

(a) ESTABLISHMENT.—There is hereby established a National Education Commission on Time and Learning (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of nine members, of whom—

(A) 3 members shall be appointed by the Secretary of Education (hereafter in this Act referred to as the "Secretary");

(B) 3 members shall be appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives; and

(C) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and minority leader of the Senate.

(2) REQUIREMENTS.—

(A) After consultation among the appointing authorities, members of the Commission shall be appointed on the basis of exceptional education, training, or experience from among—

(i) the Nation's Governors;

(ii) individuals from the business community;

(iii) individuals who are engaged in the profession of teaching;

(iv) individuals engaged in school administration, members of school boards, and parents or representatives of parents or parent organizations;

(v) State officials directly responsible for education;

(vi) Federal officials responsible for education policy;

(vii) educational researchers with experience relevant to the Commission's work;

(viii) Members of Congress and State legislators; and

(ix) representatives of nonprofit organizations or foundations which work to expand educational opportunities for children outside of school hours;

(3) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(5) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) ACTIVITY OF COMMISSION.—The Commission may begin to carry out its duties under this subsection when at least 5 members of the Commission have been appointed.

(c) FUNCTIONS OF THE COMMISSION.—

(1) STUDY.—The Commission shall examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and the use of school facilities for extended learning programs.

(2) REPORT.—The Commission shall submit a final report under subsection (d). The report shall include an analysis and recommendations concerning—

(A) the length of the academic day and the academic year in elementary and secondary schools throughout the United States and in schools of other nations;

(B) the time children spend in school learning academic subjects such as English, mathematics, science, history, and geography;

(C) the use of incentives for students to increase their educational achievement in available instruction time;

(D) how children spend their time outside school with particular attention to how much of that time can be considered "learning time" and how out-of-school activities affect intellectual development;

(E) the time children spend on homework, how much of that time is spent on academic subjects, the importance that parents and teachers attach to homework, and the extent to which homework contributes to student learning;

(F) year-round professional opportunities for teachers and how teachers can use their time to acquire knowledge and skills that will permit them to improve their performance and help raise the status of the profession;

(G) how school facilities are used for extended learning programs;

(H) the appropriate number of hours per day and days per year of instruction for United States public elementary and secondary schools;

(I) if appropriate, a model plan for adopting a longer academic day and academic year for use by United States elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in making the transition from the current academic day and year to an academic day and year of a longer duration;

(J) suggestions for such changes in laws and regulations as may be required to facilitate States, school districts, and schools in adopting longer academic days and years; and

(K) an analysis and estimate of the additional costs, including the cost of increased teacher compensation, to States and local school districts if longer academic days and years are adopted.

(d) COMMISSION REPORT.—Not later than 2 years after the Commission concludes its first meeting, the Commission shall submit a final report to the Congress and the Secretary on the study and any recommendations required pursuant to the provisions of this section.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) TESTIMONY; PUBLIC HEARINGS.—In carrying out this section, the Commission shall receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the quality and adequacy of the time devoted to study and learning.

(3) INFORMATION.—The Commission may secure directly from any Federal agency such information, relevant to its functions, as may be necessary to enable the Commission to carry out this subsection. Upon request of the Chairman of the Commission, the head of the agency shall, to the extent permitted by law, furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of money, services, or property, for the purpose of aiding the work of the Commission.

(5) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the department and agencies of the United States.

(6) SUPPORT SERVICES.—The Secretary shall provide to the Commission on a reimbursable basis such reasonable administrative and support services as the Commission may request.

(f) ADMINISTRATIVE PROVISIONS.—

(1) MEETINGS.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(3) CHAIRMAN AND VICE CHAIRMAN.—

(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission.

(B) The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and

without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates, except that no employee, other than the staff director, may be compensated at a rate to exceed the maximum rate applicable to level 15 of the General Schedule.

(4) OTHER FEDERAL PERSONNEL.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after submitting the final report required by subsection (d).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the provisions of this title.

TITLE II—NATIONAL WRITING PROJECT

SEC. 201. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 202. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—(A) The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(B) The grantee under section 202, or any school or institution of higher education that receives funds under this section shall not spend more than 10 percent of the Federal funds it receives under this section for administrative costs.

(4) SPECIAL RULE.—For the purposes of this subsection, the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—

(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purpose set forth in paragraph (1).

(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The Secretary shall reserve not more than $150,000 from the total combined amount appropriated pursuant to the authority of this section for fiscal years 1991, 1992, and 1993 to conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) GRANTS AUTHORIZED.—From amounts available to carry out the provisions of this sub-

section, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2) Priority.—(A) In awarding grants pursuant to paragraph (i), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993 to carry out the provisions of this section.

(2) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 to carry out the provisions of subsection (h).

(j) DEFINITIONS.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE III—MISCELLANEOUS

PART A—CIVIC EDUCATION PROGRAM

SEC. 301. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 (as added by Public Law 100-297) as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) CONTRACT AUTHORIZED.—The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights;

"(2) school and community simulated congressional hearings following the course of study at the request of participating schools; and

"(3) an annual competition of simulated congressional hearings at the congressional district, State, and national levels for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) REPORT.—The Secretary shall report on a biennial basis, to the appropriate committees of the Congress on the distribution and use of funds authorized pursuant to the authority of subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the provisions of this section.".

PART B—LAW-RELATED EDUCATION PROGRAM

SEC. 311. AMENDMENT TO LAW-RELATED EDUCATION PROGRAM.

Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is amended—

"(1) in subsection (a)—

(A) by inserting "(1)" before "(a)"; and

(B) by adding at the end the following:

"(2) The Secretary shall give priority for grants and contracts under this section to agencies, organizations, and institutions described in paragraph (1) that plan to operate statewide programs.

"(3)(A) Except as provided in subparagraph (B), the Secretary shall award grants and enter into contracts under this section for periods of 2 or 3 years.

"(B) The Secretary may award a grant or enter into a contract under this section for a period of less than 2 years in any case in which the Secretary determines that special circumstances exist."; and

"(2) by adding at the end the following:

"(d) APPLICATIONS.—

"(1) Any agency, organization, or institution described in subsection (a)(1) that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) The Secretary shall convene a panel of experts for purposes of reviewing applications submitted under paragraph (1). Such experts shall be individuals who have experience in and are familiar with law-related education.".

TITLE IV—NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

SEC. 401. SHORT TITLE.

This title may be cited as the "National Council on Education Standards and Testing Act".

SEC. 402. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this title is to create a national council to provide advice on the desirability and feasibility of national standards and testing in education.

(b) FINDINGS.—The Congress finds that—

(1) organizations have begun developing national education standards for various subject areas and grade levels;

(2) groups have called for the expansion of national testing for school children;

(3) decisions regarding the desirability and feasibility of additional national testing should follow such decisions on national standards for education;

(4) efforts regarding national standards and testing should be undertaken with the broadest possible participation by the public; and

(5) a major national council is needed to assure broad participation by the public, to provide a focus for national debate on national education standards and testing, and to provide advice on the desirability and feasibility of developing national standards and testing.

SEC. 403. ESTABLISHMENT.

There is established a council to be known as the National Council on Education Standards and Testing (in this title referred to as the "Council").

SEC. 404. DUTIES.

The Council shall advise the American people on—

(1) whether suitable specific education standards should and can be established, such as world class standards, for—

(A) the knowledge and skills that students should possess and that schools should impart in order that American students leave grades 4, 8, and 12 demonstrating competency in challenging subject matter including English, mathematics, science, history, and geography; and

(B) every school in America to ensure that all students learn to use their minds well so that they will be prepared for responsible citizenship, further learning, and productive employment in our modern economy; and

(2) whether, while respecting State and local control of education, an appropriate system of voluntary national tests or examinations should and can be established, such as American achievement tests, that will provide prompt, accurate information to parents, educators, and policymakers on the progress being made toward the specific education standards by individual students, schools, school systems, States, and the Nation as a whole (if such standards can be established). The goal of any such system shall be to foster good teaching and learning, as well as to monitor performance.

SEC. 405. REPORTS.

(a) FINAL REPORT.—The Council shall, as soon as possible, but not later than December 31, 1991, submit a report to the Congress, the Secretary of Education, and the National Education Goals Panel that contains recommendations regarding long-term policies, structures, mechanisms, and other important considerations with respect to the objectives described in paragraphs (1) and (2) of section 404. A discussion of the validity, reliability, fairness, and costs of implementing a system of voluntary national tests or examinations shall also be included in such report.

(b) INTERIM REPORTS.—The Council may submit to the Congress, the Secretary of Education, and the National Education Goals Panel interim reports it considers appropriate.

SEC. 406. MEMBERSHIP.

(a) IN GENERAL.—The Council shall be composed of 32 members as follows:

(1) The Secretary of Education shall appoint 22 members to include at least one representative from each of the following:

(A) The Administration.

(B) The Commission on Achievement of Necessary Skills.

(C) The National Assessment Governing Board.

(D) State legislators.

(E) Chief State school officers.

(F) School administrators.

(G) Elementary or secondary school teachers.

(H) Institutions of higher education.

(I) Individuals with expertise in education standards and testing.

(J) National teacher organizations.

(2) The Chairperson or a designee of the National Education Goals Panel.

(3) The Governor designated to serve as Chairperson of the National Education Goals Panel for the year succeeding the year in which such panel is meeting (or a designee).

(4) The Speaker of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(5) The minority leader of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(6) The majority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(7) The minority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(8) The Chairman of the Committee on Education and Labor of the House or a designee.

(9) The ranking minority member of the Committee on Education and Labor of the House or a designee.

(10) The Chairman of the Committee on Labor and Human Resources of the Senate or a designee.

(11) The ranking minority member of the Committee on Labor and Human Resources of the Senate or a designee.

(b) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(c) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Council.

(d) QUORUM.—17 members of the Council shall constitute a quorum.

(e) COCHAIRPERSONS.—The Chairperson of the National Education Goals Panel or a designee and the Governor designated to serve as the Chairperson for the succeeding year in which the panel is meeting (or a designee) shall serve as cochairpersons of the Council upon the date of the enactment of this title.

(f) COMPENSATION.—

(1) MEMBER.—Except as provided in paragraph (2), members of the Council shall each be reimbursed at a rate not to exceed the rate of pay for level III of the Executive Schedule for each day (including travel time) during which they are engaged in the performance of duties vested in the Council.

(2) EXCEPTION.—Members of the Council who are fulltime officers or employees of the United States or Members of Congress shall receive no additional compensation by reason of their service on the Council.

SEC. 407. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The cochairpersons of the Council shall, without regard to the provisions of title 5, United States Code relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay for level III of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The cochairpersons may appoint personnel as they consider appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay for level V of the Executive Schedule.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Council to assist the Council in its duties under this title.

SEC. 408. POWERS OF COUNCIL.

(a) HEARINGS.—The Council may, for the purpose of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before it.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Council may, if authorized by the Council, take any action the Council is authorized to take by this section.

(c) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish the information to the Council to the extent permitted by law.

(d) GIFTS AND DONATIONS.—Subject to the regulations established under paragraph (2), the Council may accept, use, and dispose of gifts or donations of services or property.

(2) The Cochairpersons of the Council are authorized to establish regulations setting forth the criteria the Council shall use to determine whether the acceptance of gifts or donations or services under paragraph (1) would reflect unfavorably upon the ability of the Council or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in such program.

(e) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) SUPPORT SERVICES.—The Secretary of education shall provide to the Council, on a reimbursable basis, administrative support services as the Council may request.

SEC. 409. FEDERAL ADVISORY COMMITTEE ACT.

Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections of such Act that shall apply with respect to the Council.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 to carry out this title which shall remain available until expended or until the termination of the Council, whichever occurs first.

SEC. 411. TERMINATION.

The Council will cease to exist 90 days after submitting its final report.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.".

And the House agree to the same.

WILLIAM D. FORD,
DALE E. KILDEE,
G. MILLER,
BILL GOODLING,
STEVE GUNDERSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
ORRIN HATCH,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

ESTABLISHMENT OF A NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

Senate bill

Title I of the Senate bill establishes a nine member commission, appointed by the President, Speaker of the House and President pro tempore of the Senate, which shall study and issue a report to the President and Congress on the advisability of extending the school day and or school year in U.S. elementary and secondary schools. For this purpose, the bill authorizes to be appropriated $1 million for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994.

House amendment

The House Amendment has no comparable provisions.

Conference agreement

House recedes with an amendment which changes the title of Title I to National Education Commission on Time and Learning; substitutes the Secretary of Education for the President in the apportionment process; changes the categories of persons from which appointments to the Commission may be made; modifies the description of the study that the Commission is mandated to conduct; modifies the deadline for the study so that the Commission must report to Congress not later than 2 years after the date of its first meeting; provides that the federal agency providing support services to the Commission shall be the Department of Education; provides a ceiling on the compensation of the Commission's director and staff, and provides that the authorization of appropriations shall be $1 million for each of fiscal years 1991, 1992, and 1993.

While the Commission is required to submit a final report to the Congress and the Secretary within two years of its first meeting, the conferees expect that the Commission will provide the House and Senate committees of jurisdiction with interim reports on the progress of their work.

NATIONAL WRITING PROJECT

Senate bill

Title II of the Senate bill authorizes the Secretary of Education to make a grant to the National Writing Project—

1. to support and promote the establishment of teacher training programs;

2. to support classroom research on effective teaching practices and to document student performance; and

3. to pay for the federal share of such programs.

The Senate bill contains specific requirements related to each of the authorized activities, to the awarding of grants (including priority consideration of certain applicants), and to the establishment of a National Advisory Board. Finally, this title of the bill authorizes to be appropriated for fiscal year 1991 $10,000,000 for the National Writing Project and $500,000 for research and development.

House amendment

The House amendment contains no comparable provisions.

Conference agreement

House recedes with an amendment which limits the percentage of federal funds which the grantee may spend on administration; and changes the evaluation provision to require the Secretary of Education to conduct, by grant or contract, an independent evaluation of the National Writing Project.

With regard to the teacher training programs for teachers in disciplines other than English under the National Writing Project, the conferees intend that the focus of such training be to motivate and enable teachers to incorporate writing as a basic element of all subjects. As a result, it is expected that students will develop improved writing attitudes and gain greater understanding of writing as a basic tool for communication regardless of the discipline.

INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES

Senate bill

Title II of the Senate bill amends Title IV of the Elementary and Secondary Education Act to require the Secretary of Education to carry out a program to educate students about the history and principles of the U.S. Constitution, including the Bill of Rights, and to foster civic competence and responsibility. This title contains specific provisions related to the authorized contract, program, and participants. To carry out this title, the bill authorizes to be appropriated $5,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.

House amendment

The House Amendment contains no comparable provisions.

Conference agreement

The House recedes with an amendment which requires biennial reports to the Congress relative to the "We the People . . ." program. Additionally, the conference agreement amends Part B of Chapter 2 of Title I of the Elementary and Secondary Education Act to require the Secretary of Education, in administering the law-related education program, to give application priority to statewide programs, to make 2 or 3 year assistance awards, and to convene panels of experts for the purpose of reviewing applications for assistance.

NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

Senate bill

The Senate bill contains no comparable provisions.

House amendment

The House amendment creates the "National Council on Education Standards and Testing Act" which establishes a 32 member National Council on Education Standards and Testing to advise the American people on—

1. whether suitable specific education standards should and can be established and

2. whether, while acknowledging state and local control of education, an appropriate system of voluntary national tests or examination should and can be established.

The amendment also provides that the Council shall, as rapidly as possible, but not later than December 31, 1991, submit a report to the Congress, the Secretary of Education, and to the National Education Goals Panel (as well as interim reports as appropriate).

Finally, the House amendment authorizes to be appropriated $1,000,000 to carry out this Act, provides that the Council shall receive support services from the Department of Education, and provides that the Council will cease to exist 90 days after submitting its final report.

Conference agreement

Senate recedes.

Section 406(a) of the agreement provides that the congressionally-specified congressional members of the Council may select designees who are other members of Congress, experts from outside of the Congress, or congressional staff.

The conference agreement, in section 406(f), provides that members of the Council who are officers and employees of the United States shall receive no additional compensation by reason of their service on the Council. The intention of the managers is to prohibit such officers and employees from concurrently accepting compensation for service on the Council and their regular federal salaries. Subject to applicable laws and regulations, it is not intended to preclude reimbursement for travel expenses (i.e., transportation, lodging, and meals) associated with their service on the Council.

The Senate receded to the House on the issue of the appointment of a Director of the Council, While agreeing that cochairpersons of the Council shall appoint such a Director, the Conferees urge the Governors to appoint a person who is knowledgable in the technical and policy aspects of testing and assessment, does not have a strong, preconceived opinion on the desirability and feasibility of national standards and testing, and is not part of any other public entity which has an official opinion on these issues or a vested interest in the outcome of the Council's work. The Conferees feel strongly that without such a director, the results of the Council's work could be compromised.

Because the Council must work quickly to accomplish its mandate, the conferees expected that the Department will immediately begin implementation of this act of following its enactment, even if the authorized appropriation is not yet available. The conferees express our clear understanding with the Administration that the Council established under this Title will supercede the previously appointed interim advisory council to the National Goals Panel.

WILLIAM D. FORD,
DALE E. KILDEE,
G. MILLER,
BILL GOODLING,
STEVE GUNDERSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
ORRIN HATCH,
NANCY LANDON KASSEBAUM
Managers on the Part of the Senate.

COMMEMORATING 75TH ANNIVERSARY OF CHARTERING OF BOY SCOUTS OF AMERICA

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the joint resolution (H.J. Res. 207) commemorating the 75th anniversary of the chartering, by an act of Congress, of the Boy Scouts of America, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SMITH of New Jersey. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas to explain the resolution.

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, today, I thank my chairman, Mr. BROOKS, for discharging House Joint Resolution 207 to honor the 75th anniversary of the charter of the Boy Scouts of America from further committee consideration, so that we can honor the June 15 date.

On June 15, 1916, President Woodrow Wilson signed into law the legislation authorizing a congressional charter for the Boy Scouts of America. This Saturday, we will celebrate the diamond anniversary of that event.

I am proud, on behalf of the 175 other Members of Congress, including the gentleman from New Jersey [Mr. SMITH] who are cosponsors, to ask our colleagues this evening to honor Scouting, a program whose "purpose * * * shall be to promote * * * the ability of young people to do things for themselves and others, to train them in Scoutcraft, to teach them patriotism, courage, self-reliance, and kindred virtues, using the methods now in common use by the Boy Scouts."

I believe it fitting to express congressional appreciation for the public service performed by the Boy Scouts in enriching the lives of our Nation's young men.

A BSA survey conducted during the 101st Congress shows that 332 Members of Congress were involved in Scouting in one way or another—as Scouts, leaders—or both; and I am sure that all of us have benefited from Scouting influence in some way.

Since its inception in 1908, Scouting has served over 83 million young men. Currently, the membership in the Boy Scouts is around 5½ million Scouts and adult volunteer leaders.

Scouts have contributed their services not only to their communities, but to our Nation. During World War I, Scouts participated in the war effort by selling Liberty Loans and war savings stamps, and by distributing Government literature. The Scouts also contributed their services during World War II by distributing defense bonds,

stamp posters, and collecting aluminum and wastepaper for recycling to aid the war effort.

In 1987 the Boy Scouts began to address the five unacceptables of American society—drug abuse, hunger, child abuse, illiteracy, and youth unemployment. Nationwide programs were developed to educate young people about drug abuse and the need to conserve our natural resources.

Scouting will endure because its goals and principles are timeless—honor, hard work, dignity, generosity, compassion, and patriotism. In a manner to last a lifetime, Scouting provides a way to deal with an everchanging world.

I thank my chairman and our ranking Member, Mr. FISH—and the leadership on both sides of the aisle—for all their assistance in getting this bill to the floor today—and the 175 Members of this body who cosponsored House Concurrent Resolution 207 honoring the diamond jubilee of the Boy Scouts of America's congressional charter.

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Mr. SMITH of New Jersey. Mr. Speaker, continuing under my reservation, as an Eagle Scout I am most pleased to join my colleague from Texas in urging passage of this resolution. This is a resolution commemorating the 75th anniversary of the Boy Scouts of America, which very significantly was the first youth organization to be chartered by the Congress.

Mr. Speaker, I think many Members will agree that Boy Scouts of America is an organization with few equals. Over the past three-fourths of a century it has made a significant contribution and a difference in the lives of millions of boys. I think the number cited by my good friend was 83 million youngsters have benefited by the Boy Scouting program.

It has provided youngsters the opportunity to enjoy and more fully appreciate the great outdoors, to camp, to canoe, to swim, to hike, and even to cook.

Boy Scouts of America provides boys with the opportunity to learn and to perfect a whole myriad of skills, including lifesaving and first-aid.

Scouts are encouraged to be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent. Not so bad; there are values that I think are good at any time for anyone and certainly for young boys.

I am most pleased to note that the membership in Boy Scouting has in 1991 grown for the 11th consecutive year.

As of December 31, 1990, there were 4,292,000 Scouts, a 1.4-percent increase from the preceding year.

So, more people are getting involved. My own two sons are involved in Scouting.

Mr. Speaker, further under my reservation, I yield to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend both of these gentlemen for introducing this commemorative resolution. Just this past weekend I had the privilege of attending a memorial service for Dan Beard, one of the founders of Scouting in our country, and he is buried in my congressional district, in a cemetery up in Rockland County.

We are proud of what Boy Scouts have done for our Nation. The leadership that they have provided for other youths as they go on to higher ranks also. I always try to find the opportunity to attend an Eagle court of honor in my own area, as many of my colleagues have done along with me in this same endeavor, to try to give appropriate honor to those young people who have been very active in scouting.

It is a wonderful activity. We hope that it will continue to grow and prosper.

Mr. Speaker, I commend the gentleman for bringing this celebration to the attention of our colleagues.

Mr. SMITH of New Jersey. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. JONES of Georgia). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 207

Whereas June 15, 1991, will mark the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America;

Whereas the Boy Scouts of America was the first youth organization to be granted a charter by Act of Congress;

Whereas the Congress has been kept informed of the programs and activities of the Boy Scouts of America through the annual reports made to it each year by this organization in accordance with such charter;

Whereas these programs and activities have been designed to instill in the Nation's youth the moral and ethical principles, and the habits, practices and attitudes, which are conducive to good character, citizenship, and health; and

Whereas by fostering in the youth of the Nation those qualities upon which our strength as a Nation is dependent, the Boy Scouts of America has made a contribution of inestimable value to the welfare of the entire Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby pays tribute to the Boy Scouts of America on the occasion of the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America, and expresses its recognition of and appreciation for the public service performed by this organization through its contributions to the lives of the Nation's youth.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARKING THE 75TH ANNIVERSARY OF CHARTERING OF BOY SCOUTS OF AMERICA

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate joint resolution (S.J. Res. 111) marking the 75th anniversary of chartering by Act of Congress of the Boy Scouts of America, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 111

Whereas June 15, 1991, will mark the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America;

Whereas the Boy Scouts of America was the first youth organization to be granted a charter by Act of Congress;

Whereas the Congress has been kept informed of the programs and activities of the Boy Scouts of America through the annual reports made to it each year by this organization in accordance with such charter;

Whereas these programs and activities have been designed to instill in the Nation's youth the moral and ethical principles, and the habits, practices and attitudes, which are conducive to good character, citizenship, and health; and

Whereas by fostering in the youth of the Nation those qualities upon which our strength as a Nation is dependent, the Boy Scouts of America has made a contribution of inestimable value to the welfare of the entire Nation: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby pays tribute to the Boy Scouts of America on the occasion of the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America, and expresses its recognition of and appreciation for the public service performed by this organization through its contributions to the lives of the Nation's youth.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 392

Mr. CHANDLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 392, the title X Pregnancy Counseling Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. COX] is recognized for 5 minutes.

Mr. COX of Illinois. Mr. Speaker, I stand before this Chamber today to address one of the most potentially devastating problems facing our Nation, access to quality health care.

Recent reports have shown that over 33 million Americans are currently without any type of health care coverage. Roughly over 40 million are underinsured with even the most financially secure vulnerable to financial ruin due to long term health care costs.

There are obviously many reasons for these skyrocketing costs, none of which can be easily solved. Currently, the Federal Government is responsible for over 29 percent of health care costs in this country, spending approximately $174 billion dollars to provide health coverage. Included in this is Medicare at $114 billion and Medicaid at 39 billion. The combined Federal outlays for health care consume nearly 15 percent of Federal spending.

Mr. Speaker, it is obvious the health care system in this country is at a crossroads. We must halt or significantly slow the rising cost of health care. While insuring those who are financially unable to obtain quality health care are not turned away because of inadequate health insurance. We must not allow the life savings of our senior citizens to be depleted to pay for the rising cost of long-term care. It is crucial to the future of this Nation that we address this problem today and establish a health care system that works for all.

I do not stand before this Chamber today with all of the answers to our problems. I do not pretend to have a miracle solution to solve the health care dilemma. But I do realize the responsibility we have as elected Members of this body to address this problem and begin the process of establishing a health care system that will benefit the entire Nation.

The Government Operations Committee, of which I am a member, is currently holding hearings on health care reform in this country. The focus of the hearings have revolved around a comparison of the Canadian model with our current system. We have much to learn from the successes and failures of the Canadian system. The Canadian's success at providing coverage for all of their citizens at a per capita cost significantly below that of the United States is attractive. At the same time, there seems to be instances of reduced quality and efficiency in health care services. We need to apply the lessons of other industrialized nations as they have addressed their health care problems, taking the good and leaving the bad.

I am somewhat disappointed at the administration's present action on this issue. The President has recently shown his skill in providing this country with strong leadership in the Persian Gulf. I am hopeful he will now begin to show some similar leadership as we address the issue of a national health care solution. Together, I am confident we can determine what is the best possible solution to our health care problems and begin to work toward such a goal.

Mr. Speaker, I would like to take this opportunity to request the administration's cooperation with Congress as we attempt to address this problem of national significance. It is our responsibility to tackle this challenge aggressively and responsibly on behalf of the American people.

□ 1940

TRIBUTE TO THE HONORABLE VINCE WHIBBS, SR., MAYOR OF THE CITY OF PENSACOLA, FL

The SPEAKER pro tempore (Mr. JONES of Georgia). Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, I rise today to pay tribute to a great American, the Honorable Vince Whibbs, Sr., mayor of the city of Pensacola, FL. Mayor Whibbs retired this past Monday, June 10, after 7 consecutive terms as Pensacola's mayor and 15 years of dedicated service to the city.

Vince Whibbs is a native of Buffalo, NY. He was educated there, and after serving as a fighter pilot in World War II, he rejoined General Motors, where he had worked for several years.

In 1958, Pensacola got lucky. Vince Whibbs left General Motors, and decided to open a Pontiac dealership in Pensacola, beginning unequaled service and accomplishments that have continued over the past 33 years.

Vince immediately became active. He served as a city councilman and as a member of the board of directors of the Greater Pensacola Area Chamber of Commerce. In 1978, Vince began his service as mayor, and served without interruption until his retirement on June 10. He has the longest period of service of any mayor in Pensacola's history.

Mayor Whibbs has been instrumental in every aspect of Pensacola's life. To list just a few, he is past president of the Pensacola Chamber, the Pensacola Chapter of the Navy League, the Fiesta of Five Flags, the United Way, Suburban West Rotary, Pensacola Franchised Automobile Dealers Association, Junior Achievement and Project Alert.

Vince has always been the key proponent of Pensacola and its strengths. He has developed and nurtured a love affair between the city and the Navy that is unequaled throughout the country. Pensacola, as the Navy's pilot training base, and home for the Navy's Chief of Education and Training, sees thousands of sailors pass through each year. Vince has ensured that these sailors are fully integrated into the city during their stay in Pensacola.

Vince led the way in developing and implementing a plan to move the U.S.S. *Lexington*, an aircraft carrier used to train Navy pilots, from Pensacola Naval Air Station, to downtown Pensacola to make room for a larger carrier, scheduled for arrival in 1992. Vince tackled this most unique task with his usual energy and optimism, and today, the U.S.S. *Lexington* is safely berthed in downtown Pensacola, and the port at Pensacola Naval Air Station is complete and ready for the U.S.S. *Forrestal*, which will arrive in early 1992.

Mayor Whibbs also led the way in the successful rebirth of the downtown district, as well as many other projects, such as airport redevelopment, a new City Hall, police station, and many others.

Although all these accomplishments are significant, and although the city of Pensacola will benefit from these for many years, Vince's real strengths lie in his basic personality and his never ending promotion of the city's goodwill. Vince Whibbs is known nationwide, and everyone who knows him breaks into a spontaneous smile when his name is mentioned. In other words, no one doesn't like Vince Whibbs. Known as that fast talking mayor, he literally can talk faster than some of us can listen. Always ready with an eloquent statement on any subject concerning the city and its citizens, Vince's contribution to the feeling that Pensacola is a good place to live is immeasurable.

We will all miss hearing the famous Vince Whibbs welcome to Pensacola, usually stated at lightning speed. It goes something like this:

On behalf of our elected City Council, those ten masterful men who manage our magnificent municipality; and on behalf of the chairman of our county commission and his four commissions who constantly deal with the changing, challenging conditions of our county; and on behalf of our wonderful people who populate the Northwest Florida area, it is my privilege and pleasure as mayor to welcome you to Pensacola, the western gate to the Sunshine State, where thousands live the way millions wish they could, where the warmth of our community comes not only from God's good sunshine, but from the hearts of the people who live here. Welcome to Pensacola, America's first place city and the place where America began.

To Mayor Whibbs and his lovely wife Anna Marie, their 7 children and 22 grandchildren, we congratulate you on your 15 years of service to the city. We will not forget your acomplishments, and we will continue to revere you as our city's premier citizen. We share in your excitment about the days ahead, which will hopefully provide more time for your family and your business interests. With all our love and respect, we say thank you, Mayor Whibbs. May God continue to bless you.

UNITED STATES ASSISTANCE TO THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, the situation in the Soviet Union deteriorates daily. Seventy-five years of communism have culminated in hyperinflation, bureaucratic inefficiency, ideological conflict within both the Kremlin and the republics, long food lines, runaway military spending, and crippling labor strikes. In addition, a fragile, yet cumbersome Central Government has resulted. This crisis rasies serious doubts about the Soviet Union's survival in its current form.

President Bush is now asking Congress to support most-favored-nation status for the Soviet Union. He also favors Soviet inclusion in the group of seven meetings in London on July 15, so Mr. Gorbachev can present his request for nearly $250 billion in aid and $600 million in credits. Yes, that's right. A Republican administration is considering a bailout of the "evil empire."

Caution should be used in discussing United States assistance to the Soviet Union. We cannot open the foreign aid floodgates without concrete guarantees on a timetable for democratic reform in that nation. Mr. Gorbachev has not convinced me he possesses either the political clout or the inclination to complete his perestroika program. He has also masterfully postponed a decision on the direction of the Soviet state for his own self-preservation. We have no idea whether he is dedicated to democratic reforms, or simply a public relations magician. Mr. Gorbachev has to earn our support.

The United States has a stake in the Soviet Union's ability to overcome this crisis, and it is clear the Soviets cannot make it on their own. Without multilateral support from industrialized nations, the Soviet Union will become even more unstable, thereby increasing the chances of spreading turmoil to the precarious new democracies of Eastern Europe. The issue is not what the Soviet Union needs help. Of course it does. The issue is the timing and the form of our assistance, and the reforms we seek in return. In my view, we should provide the Soviet Union with a package linking assistance to policy measures, and to incentives for future aid, if specific reforms are completed.

A Soviet commitment on Baltic human rights is an essential precondition to any assistance package. Red Army Forces have recently renewed their use of force against the people of Lithuania with assaults on customs posts in a resumption of last January's crackdown. We have an obligation to help the young Baltic States grow into independent democratic nations, and we must obtain guarantees against further Soviet aggression in the region.

Any package should also extend support in the form of trade concessions, United States technical expertise, and United States backing for Soviet membership in the World Bank and the International Monetary Fund [IMF]. As a complement to United States policy linkage on Soviet political reform, the World Bank and the IMF would tie loans to Soviet economic policy changes. U.S. incentives would link future U.S. assistance to progress on free and open elections, on legalizing private property, on domestic human rights concerns, on emigration policy, on political decentralization, and on steps toward a free-market economy.

Mr. Speaker, it is clear that Mr. Gorbachev and the Soviets need our help to survive. However, we cannot simply donate our scarce resources to an antiquated economy and a decaying political system. Placing conditions on any aid will force Mr. Gorbachev to work for authentic reform programs in the Soviet Union.

DEBT IN OUR ECONOMY

The SPEAKER pro tempore (Mr. JONES of Georgia). Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 60 minutes.

Mr. PANETTA. Mr. Speaker, this is the second in a series of special orders that I am taking to address the state of our economy. Tonight I address the issue of debt in our economy.

The 1980's were the decade of debt, and it looks like the 1990's will be the decade when we must start to repay that debt—with interest. At the end of 1990 households, businesses, the Federal Government and State and local governments were nearly $11 trillion in debt. That is almost triple the level at the end of 1980. For 10 years, our debt grew faster than our GNP—forcing us to borrow so much from foreign savers that we are left more exposed to high interest rates and credit crunches, and less able to use monetary and fiscal policies to manage our own economy. Debt has become a consuming black hole in our economy.

The recession has sounded the wake-up call as banks, as well as S&L's, fell under the weight of defaulted real estate loans; troubled consumers cut back on purchases to meet interest payments; and businesses laid off workers to save cash to avoid default on their junk bonds. Today I want to discuss our debt problem: Its size; the failed policies that brought it about; its costs to the economy; and the painful corrective action that the Nation will have to take to get back on the right track in the 1990's.

The most startling aspect of the debt binge of the 1980's was the deterioration of our international financial position.

I. THE EXTENT OF THE PROBLEM

Foreign debt—our net international investment position. In 1914, the people, businesses and Government of the United States owned $5 billion of assets abroad—common stocks, physical assets such as factories or real estate, and bonds and other loans. Meanwhile, foreigners controlled $7.2 billion of similar assets in the United States. That left the United States a net debtor to the tune of $2.2 billion. Note that the terms "international debt" and "debtor" include ownership of stocks and real estate, as well as actual debts or loans. In 1914, of course, the United States had hardly made its mark on the world at large. By the end of World War I, however, we had established ourselves as a great power; and in financial terms, we had become a net creditor. Over the decades that followed, as we continued to establish our status as the world's dominant power, we built up a net investment position to a high of $364 billion at the end of 1982—that is, our holdings of assets abroad exceeded foreigners' holdings of U.S. assets by $364 billion, using the new replacement cost method of valuation.

In just a few short years, we blew it. By the end of 1986 we returned to the negative international investment position that we had left on the eve of World War I, more than 70 years before. By the end of 1989 we were net debtors to the tune of $464 billion—nearly half a trillion dollars—and our condition is no better now.

How can we be sure about our trend toward international indebtedness, and why do we care? The answers are one and the same. The more assets we own as a people, the greater the investment income that we earn from abroad, and therefore the greater U.S. income and wealth. So we should care about our investment position with the rest of the world for the same reason that we care about the productivity of our workers: They both bear upon our standard of living.

In 1981, we received net investment income of $31 billion from the rest of the world; they paid us $31 billion more on our investments than we paid them. This net investment income more than offset a modest merchandise trade deficit that we ran in that year. Since then, however, our investment income has fallen to negligible levels. This both reduces our standard of living as a nation, and verifies that our effective net investment balance with the rest of the world has deteriorated sharply.

Our international debt makes a political difference as well as an economic difference. A nation that depends on foreigners to buy its bonds and finance its investment cannot have as much influence as a nation that is lending instead of borrowing. For proof, we need only remember the spectacle of Secretary of State Baker making the rounds begging for contributions from

other countries to finance Operation Desert Shield, and our further need repeatedly to dun those countries to pay up. For yet another example, Treasury Secretary Brady recently asked both Japan and Germany to lower their interest rates to help worldwide recovery; all they said was that they would not raise them. We are left, then, to ask their help to support the dollar if we lower our interest rates. In fact, one of the reasons the Federal Reserve is afraid to lower interest rates further to stimulate our recovery from recession is the fear that our dollar will depreciate, and that needed foreign capital will flee the United States.

The emergence of the United States as the world's largest debtor nation is striking and painful. But how did it happen? It is the result of an explosion of debt within our borders, debt accumulated by every segment of the economy. The Federal Government is part of the problem. But debts run up by households and by businesses are also significant contributors.

FEDERAL DEBT

In September 1981, President Reagan said;

> In just the past decade, our national debt has more than doubled. And in the next few days, it'll pass the trillion dollar mark. One trillion dollars of debt—if we as a nation needed a warning, let that be it * * *. Washington spends more on interest than on all of its education, nutrition, and medical programs combined.

In the next 10 years, the Reagan-Bush administrations far outdid the 1970's. The national debt didn't just double—it tripled; the debt subject to limit is now $3.4 trillion. Of course, some will say that it is all the Congress' fault, but they cannot erase the responsibility of the Reagan and Bush administrations for the 1980's tax policy, the defense spending policy, and the high real interest rate policy; not to mention the regulatory policy of the 1980's that left us with more than $100 billion of debt—and more to come—just to clean up the savings and loan catastrophe.

PRIVATE DEBT

At the same time, the private sector went on a borrowing spree as well. From 1980 to 1990, households added $2.4 trillion to their debt, which now stands at $3.8 trillion. Nonfinancial businesses added $2.1 trillion to their debt, which now stands at $3.5 trillion. We do not count the debt of financial businesses, because it contains a lot of double counting. What matters is the burden of debt on the sectors that actually produce goods and services. State and local governments added $360 billion to their debt, which is now $649 billion.

TOTAL DEBT AND INCOME

Taking all these sectors and the Federal Government together, and consolidating the Federal sector to net out the trust funds, we have $10.6 trillion of debt in the domestic nonfinancial economy. This is nearly triple the $3.9 trillion of 1980.

These numbers would not be so frightening if our incomes had increased as fast as our debt. But they did not; and so neither did our ability to service the debt.

The table that follows compares the debt of nonfinancial sectors of the economy relative to appropriate measures of incomes for 1960, 1980, and 1990.

	1960	1980	1990
Ratio of:			
Total domestic nonfinancial debt to GNP	1.41	1.43	1.94
U.S. Government debt to GNP	.46	.27	.47
Household debt to disposable personal income	.60	.75	.97
Nonfinancial corporate debt to nonfinancial gross domestic product	.55	.54	.74

Source: Federal Reserve flow of funds and Commerce Department national income accounts.

Overall debt was a relatively constant percentage of income for the 20 years between 1960 and 1980. The debt of nonfinancial corporations was a relatively constant percentage of their income over the same time span. Federal Government debt was actually a declining percentage of the GNP. This made room for an expansion in household debt relative to the size of the economy.

In contrast, the debt of every sector of the economy rose relative to our income in the decade of the 1980's. The total jumped from 1.4 times our GNP to 1.9 times our GNP; in other words, the total debt in our economy is now nearly twice our annual income. Federal debt undid in 10 years the progress that had been made in the preceding 20 years, and household and corporate debt ratios also rose to new highs.

II. HOW DID WE GET INTO THIS MESS?

The first question that we have to ask ourselves, as we face this mountain of debt, is how we, as a nation, got ourselves into this mess?

Again, the problem is the total of the debt that we—all of us—accumulated over the 1980's. It is not just the debt of the Federal Government. Therefore, we have to look at ourselves—as individuals, and as business persons—who so added to the debt burden of our economy.

In fact, few households, and few businesses, run out and simply borrow too much. Rather, people and businesses make forecasts about their economic prospects, and they act on those forecasts. If households believe that their incomes will increase rapidly and steadily, they will be more inclined to borrow for a bigger home, a new car, or other consumer items. If businesses believe that their sales will grow, they will be more inclined to borrow to expand their facilities—or to buy out their competitors, or businesses in some completely unrelated field. If the forecasts turn out right, then the debts are repaid. But households and businesses get in trouble when their forecasts turn out to be wrong.

The major downside of debt—for businesses or households—is risk: What if something goes wrong, and you cannot make your interest payments? If you cannot, the result is bankruptcy.

It may be something more than coincidence that the borrowing boom of the 1980's followed the borrowing boom of the 1920's by just about one adult lifetime. That was just enough time to forget the costs of excess. In the 1920's, overconfidence in the economy led to rampant speculation, including borrowing to carry investments in corporate stock. When stock prices plunged, the value of those loans was wiped out, bankrupting both the borrowers and the lenders.

The result thus far in the 1980's has not been cataclysmic. Our economy has proven far more resilient than that of the 1930's. But some of the economic indicators and phenomena have been similar. Throughout the 1980's we have had an enormous increase in business bankruptcies; it began in the recession of 1981 and 1982, but continued through most of the recovery, and has resumed in 1990 and 1991. While the 1930's had a bull stock market, followed by a crash, the 1980's had a real estate boom and bust, and the creation, rapid expansion and collapse of a market in junk bonds. And both the 1930's and the 1980's had a rash of failures of banks and other financial institutions.

The common element between the 1920's and the 1980's was the accumulation of debt that preceded the bankruptcies and bank failures. Why was that pattern repeated?

In both the 1920's and the 1980's, there were bursts of economic euphoria. In the 1980's, we were reassured that it was "morning in America," and that recession could be avoided indefinitely. As a result, many households and businesses determined that they could carry more debt safely.

However, these optimistic expectations were not realized. The misjudgments of the 1980's were both large scale and small scale. The economy as a whole did not enter an era of unending rapid economic growth, and so even before the current recession, business borrowers had problems of bankruptcy far in excess of other recent economic recoveries. And there was a further impetus toward debt in the 1980's. The Nation was leaving a period of rapid inflation, and inflation encourages and rewards the holding of debt. Instead, however, inflation slowed; and as a result, many borrowers did not receive the expected inflationary increases in their incomes.

There were also localized failures of borrowers' expectations for the economy. Real estate investments saturated many local markets, as local forecasts of rapid growth encouraged building. Instead, many real estate projects extended well beyond local needs, leaving vacant space in office

buildings and shopping centers in many areas of the country, and leading to numerous real estate bankruptcies.

Thus, the debt binge of the 1980's was far reaching. And when things go wrong on this scale, there are meaningful costs to society. One person's liability is another person's asset. The bankruptcies of high-flying real estate deals and junk-bond issuers were the immediate causes of the bank and savings and loan failures of the last few years.

III. THE BORROWING SPREE OF THE 1980'S: THE CONSEQUENCES

Borrowing is not necessarily unhealthy. Going into debt to build a house or a factory, to pay for a college education or vocational training, to invest in a new technology or to build infrastructure can all be constructive. The common element in all of these expenditures is that they will produce new wealth which makes it possible to pay back the loan, with interest. In other words these expenditures are investments.

Unfortunately, America did not invest enough of the funds that we borrowed in the 1980's. Too much of the Federal Government's borrowings was used to finance tax cuts for the wealthiest Americans, and to expand the defense establishment. The wealthy recipients of those tax cuts borrowed even more to finance what has been called conspicuous consumption. Too much was borrowed by corporate raiders to bid up the prices of existing businesses. Only a small share of this debt went into the kinds of investment that lay the foundation for a stronger economy; that is why debt is now a threat to economic health and growth.

Too much of the $7 trillion that was borrowed between 1980 and 1990 went to immediate gratification of wants, and too little went to the needs of the future. As a nation, we spent more than the income that we produced in the 1980's could pay for. The personal saving rate by 1987 was the lowest since the post-World War II spending boom, and is not much higher now.

There were immediate as well as long-term costs; but the costs were spread out beyond the actual borrowers. The most important of these costs were higher real interest rates and lower business investment. Interest rates, like all other prices, are determined by supply and demand. In this case the supply of national saving fell while the demand for borrowing rose, so our interest rates had to rise to induce foreign savers to lend to American borrowers. It has been estimated that by 1987 the United States was borrowing nearly 10 percent of the combined net savings of all of the other industrialized nations of the world. It is no wonder that we had to offer high interest rates to attract so much of the world's savings.

One consequence of this need to borrow from abroad is a trade deficit. For foreigners to lend to us in dollars, they had to buy dollars, and that buying pressure drove the value of the dollar up relative to other currencies. By the beginning of 1985, the dollar was more than 50-percent higher than it had been in 1980.

This made U.S. products more expensive abroad and foreign products cheaper here. Exports stagnated, imports soared, and the trade deficit exploded, reaching $152 billion in 1987, compared with only $19 billion in 1980. It now appears that permanent structural damage was done to the international competitiveness of American industry in this period. Foreign firms were given a golden opportunity to build footholds in the U.S. market—gaining customer loyalty and setting up distribution networks which will remain in place. At the same time, they were able to drive U.S. products out of their own and third country markets. This makes correcting our trade deficit even more difficult and painful.

A final cost of the 1980's debt spree is the emphasis that businesses must put off generating short-term cash to pay their interest bills, rather than investing for the future. Advocates of the leveraged buyout binge of the 1980's argued that the pressure to meet interest obligations would force stodgy business firms to become lean and mean, and more efficient. It is true that pressure can focus the mind. But extreme interest burdens can force cutbacks in research and development, and other programs that build for the future. You cannot invest resources today for a potential payoff 10 years out when those funds are needed to meet this quarter's interest payment.

The cost in terms of lost GNP is already mounting. A recent study by the Federal Reserve Bank of New York found that the low saving and investment rates of the 1980's resulted in a loss of as much as 5 percent of the Nation's potential production compared with the trends earlier in the postwar period. Unless we raise the national saving and investment rates, and lower the debt burden, that loss will continue to grow, and our future standard of living will dwindle.

IV. WHERE DO WE GO FROM HERE? A PAINFUL CORRECTION

In many ways, the early 1990's will feel like the hangover from the extended debt party of the 1980's. We will pay for national overindulgence now and over the years to come.

We have already seen the effects of overindebtedness during the current recession. Businesses have to cut back on employment more severely and earlier to conserve cash. They will be hesitant to invest at the beginning of the recovery if it means taking on more debt; their debt service burden relative to cash-flow makes them less creditworthy. And any bad news—including a longer-than-expected recession or an economic shock—will find more businesses than in the past overburdened with debt and in danger of bankruptcy.

Banks are reluctant to lend even for normal business financing because they themselves are burdened with portfolios of sour loans. The problems of the banking system are well known: There are too many real estate loans on projects that sit empty and whose developers have gone bankrupt. The economic policies of the 1980's encouraged such excessive commercial real estate development financed by borrowing. Regulators finally tightened their standards and required that banks raise more capital to back up their loans; but banks could not raise more equity capital, and so had to reduce their outstanding loans. This meant tightening credit standards and denying loans to businesses that might otherwise have been creditworthy.

Though the contraction of lending may be coming to an end, the recovery may still be later and weaker because too many businesses and consumers are troubled with their current debts. However, the long-term correction will also be painful, in terms of slower income growth and the amenities provided by all levels of Government. We as a nation have been consuming more than we produce for 10 years, and to cut back the debt to a manageable level, we are going to have to produce more than we consume for a long time to come.

This coming transition from our debt binge back to sound economic policies will have several painful effects. First, to reduce our trade imbalance, the dollar will have to decline. That means that imports will be more expansive to American consumers, a direct hit on the standard of living to which we have become accustomed. It also means that American assets—companies and land as well as stocks and bonds—will be cheaper to foreign buyers. Until we have raised our national saving, primarily by reducing the Federal deficit, foreign investment in the United States will continue to create friction with our industrialized allies. The importance of the value of the dollar, and need to attract foreign funds, will limit the freedom of the Federal Reserve to reduce interest rates to stimulate the economy and encourage domestic investment.

Finally, the debt that we accumulated in the borrowing spree of the 1980's requires that we pay an increasing share of income produced in the United States to foreign investors. This is income that could have been reinvested in America—in schools, roads, factories and homes.

V. CONCLUSION: WHERE WE STAND

Now, the evidence of the decade of debt is all around us: mountains of bad junk bonds; continuing business bankruptcies; S&L and bank failures; and

an accumulation of bad assets in the hands of the Federal Government.

For all of these reasons, our recovery from the current recession will be slow, and our standard of living will be lower because of this excess.

The debt binge extended to every sector of the economy; but the Federal Government was the largest single actor in this very bad drama. We need to take the lead at the Federal level to turn this trend around. It would be wonderful if we could make consumers borrow less and save more, but we have tried and failed—at great expense to the Federal Treasury. Tax breaks for saving have increased the deficit more than they raise personal saving, and thus have reduced our total national saving. Our foremost responsibility—and the one sure way to slow the debt binge—is to follow responsible policies to reduce the Federal deficit. The budget agreement between the President and the Congress was an essential first step. More must be done if we are to escape the black hole of debt that clouds the future of our Nation.

□ 2010

THE CIVIL RIGHTS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. SCHIFF] is recognized for 60 minutes.

Mr. SCHIFF. Mr. Speaker, I would like to begin by complimenting the erudite presentation of my colleague, the gentleman from California, the chairman of the Committee on the Budget. I certainly agree with his overall point that a nation whose government is in debt, whose businesses are in debt, and whose citizens are in debt, is not going to stay a world power for too much longer.

Just looking at the Federal Government, we spend on interest on the national debt, and for us in Government, the same as for every individual citizen, interest comes off the top, and it has to be paid first.

We spend twice on interest on the national debt what we spend on the entire Medicare Program. So imagine, as we debate in the Congress health care problems and other difficulties that we have what we could do without raising taxes if we had control of the money that we now spend on interest on all of the borrowing that has been done over the years, and, of course, that does not even talk about how we pay back the principal on that borrowing.

I compliment the gentleman's presentation.

Mr. Speaker, however, I did take the floor for another reason. I want to talk about the Civil Rights Act of 1991.

The reason I want to talk about it is we did pass it approximately a week ago, sent it over to the other body for consideration, passed a version of it, and this is a very important bill to me.

□ 2020

It is important, first of all, because it is very important to my constituents. It is important because I have the privilege of serving on the Committee on the Judiciary, and I spent a great deal of time studying the bill and the various amendments.

The reason I am taking to the floor now is because I was disappointed in the debate that we had on the bill prior to the vote and passage of the final version. I was disappointed because I felt, and this may have been caused by the fact that the speakers had only a relatively few minutes to speak, and I understand that. Nevertheless, much of the debate was conclusionary in nature. One speaker, depending on their point of view, might say "this bill is a good bill to ensure civil rights;" Another speaker might say, "I object to this bill because it is a quota bill," and he would have a great deal of rhetoric going back and forth upon these points without really getting into what is in that bill. What is it that bill is made up of? How does it work? How is it written? What is it all about? Then the people can make up their own minds as to whether, in fact, it is a needed bill. Or, in fact, is it a quota bill.

I might add that my own conclusion is somewhat in between. I think there is a bill we need to pass. I think there is some risk of creating a quota or hiring by the numbers. I think that risk was greatly exaggerated by the other side of the aisle. I will go into that in a couple of moments.

I think it is important that it be placed on the record what the bill is all about. That is what I propose to do here this evening.

The civil rights bill of 1991 was actually a successor to the civil rights bill of 1990. The civil rights bill of 1990 was passed by both Houses of Congress. It was vetoed by President Bush, and the Congress failed to override the veto. That killed the issue as a legislative matter for the year 1990. It was then refiled as H.R. 1, the first bill of the House of Representatives in 1991, in the 102d Congress.

Now, the origin of the bill in 1990 was an attempt by supporters to address and, in fact, to reverse five U.S. Supreme Court decisions which interpreted civil rights laws. The supporters disagreed with those five decisions and wanted them reversed. Four of those principal decisions dealt with the Civil Rights Act of 1964, and one of those decisions dealt with the Civil Rights Act of 1866. That is the origin of the Civil Rights Act.

Now, stopping right there, that origin is going to lead to a great deal of complexity for two principal reasons. First of all, since the bill is written to address Supreme Court decisions, it deals with highly technical matters, with construction of wording in the relevant statutes and the court decisions, legalese we may call it. I want to stress that the fact that the wording is highly technical does not make the bill unimportant, but it makes the bill very complex in nature when wording is offered to counter certain Supreme Court decisions on how a statute is to be interpreted. Interpretation is very important but can be very complex.

Second of all, these five separate court decisions are only loosely tied together under the title "Civil Rights." It is true that all of the five decisions deal with the Civil Rights Act or one of the Civil Rights Acts, that is correct. However, they each deal with a completely different aspect of the Civil Rights Acts. One might deal with intentional discrimination, one with unintentional discrimination, one with seniority systems, and so on and so forth. The point I am making is that it is entirely possible for my colleagues and myself and for members of the public to in fact agree in part and disagree in part with the original civil rights proposal, because it is possible to look at the five Supreme Court decisions and to agree with four and disagree with one. The supporters disagree with all five. That is their privilege. That does not mean all persons have to disagree with five, or that does not mean that we all have to disagree with all five in terms of the debate. One could say that they disagree with four of the decisions but one is believed to be a correct interpretation. A person might not think they should change it, and disagree with that. Of course, one more complexity on that is that two Members of Congress could say, "I agree with four decisions and only disagree with one." Let me go back and reverse that, colleagues could say that they disagree with four of the decisions and want to reverse them but agree with one; however, the one agreed upon is not the same between the two colleagues. One colleague might agree with Supreme Court decision one, two, three, and five, while the next colleague might agree only with two, three, four, and five. Therefore, they each agree with four decisions, but not the same four decisions.

Obviously, that leads to further complexity, just on which decisions different Members agree with, and which decisions they do not agree with.

Here are the five principal decisions. The first which I will speak of, and I have put them in the order that I heard them addressed, although the decisions could well be placed in another order. They are all relatively recent, I think, from 1989. One is Wards Cove Packing Co. versus Antonio. Wards Cove Packing Co. versus Antonio deals with business hiring practices and may result in unintentional discrimination. In other words, a business might have certain

criteria for the hiring of all its employees, but the result of that criteria results in the fact that individuals are hired in disproportionate numbers to what is another issue, to management versus nonmanagement jobs, going more toward the majority group or minority, or disproportionate to the labor portion or the population at large in the business. Because I felt Wards Cove became a central matter during this debate, I am going to hold further discussion on that issue for a moment.

Another case is Price, Waterhouse versus Hopkins. Price, Waterhouse deals with intentional discrimination. The issue raised in Price, Waterhouse is, what happens if an employer intentionally discriminates against a worker for reason of race, religion, gender or other prohibited reason, but in fact has other reasons for denying that same person a hiring in the first place. Or, if they are already hired, promotion or transfer? In other words, there is a mixed motive. The employer really intends to discriminate, and that can be proven. Assume that for the case was proven. Assume the employer would say that they would have not promoted this individual anyway, even if they did not have discriminatory reasons. That case implies, I think the results may have been favorable to this individual plaintiff, but some of the wording implies that if there is mixed motives and it can be proven, an employer was discriminated against first for prohibitive reasons, racial or gender discrimination, but also the employer, in fact, would have taken the same action absent the discrimination, the case implies the employee has no remedy because the same action would have been taken against the employee even if no discrimination was involved.

I might add that generally speaking, that is part of a general rule of law that there is a general principle, in cases I have heard for precedents, that if the same result would be reached for another reason, then it is the same result, and the person is not considered to be injured. However, the supporters felt, and I would add that I agree, that intentional discrimination is so repugnant in our society that there ought to be some kind of remedy, even if it is a limited remedy, to those who can prove intentional discrimination, even if it is an injunction to prevent intentional discrimination occurring in the future. They should be able to act on it in that situation. That is what was included in H.R. 1.

A third case is Martin versus Wilkes, and that deals with this question: What can individuals who were not party to a lawsuit and to a judgment, assuming some years ago, try to reopen that judgment? It comes up in the context that, and we will suppose that a group, particularly a minority group of workers, bring a civil rights lawsuit against an employer. Suppose there is an agreed-upon judgment, that the employer admits to previous discrimination, and proposes a solution of an affirmative action plan to cure the problem.

□ 2030

What can employees who may not even have been employed at that time do? Can they come in and challenge this judgment on the grounds that, well, they are affected by it but they were not parties to it?

The argument here becomes very difficult, because on the one hand we have a strong belief that judgments should be final, that cases should not be litigated over and over again.

On the other hand, we have an equally strong belief that people are entitled to their day in court, that it is not fair to subject somebody to a judgment when they were not a party to it, and the truth is in this particular area an attempt is made to find a balance, not everyone might agree this is a balance, but an attempt was made to say, well, was the individual who was affected, who wants to reopen this case, was their point of view represented in the original judgment? In other words, what they want to say today, was that advanced before the judge before the judgment was in fact rendered? So in effect they were in fact represented.

I am not saying that I or everyone should agree with that rationale. It sort of became the focus of that debate.

Four cases: Lawrence versus AT&T Technology. In that case, the Supreme Court held that the statute of limitations to bring a discrimination case begins to run when the discriminatory practice is put into effect in the business, and not when it is known of or affects the employee who wishes to bring the suit.

Now, the obvious problem there and why supporters and I would join in this, believe that this should be reversed, is the statute of limitations could go past so that no action could be brought for an employee who does not even know this practice is in effect, much less has been personally adversely affected by it.

Generally speaking, I think it is appropriate to say when a person is affected, that is the point where the statute of limitations ought to begin to run, so that they have the opportunity to bring some kind of action.

The fifth principal case is Patterson versus McLean Credit Union. In Patterson versus McLean Credit Union, it did not deal with the interpretation of the Civil Rights Act of 1964. The other cases I referred to did. This case dealt with an interpretation of the Civil Rights Act of 1866, a post-Civil War reconstruction act, of course at that point designed to assist the recently freed slaves. It is found in the law at 42 United States Code 1981. It is not by itself an employment statute, though it always has been used in employment, but it is broader than that. It prevents discrimination in the making and formation of a contract. Of course, that has been used in employment cases, because employing someone is making a contract.

Well, the Supreme Court in Patterson interpreted that provision about making and enforcing a contract literally toward making a contract. In other words, they said, they being the Supreme Court, that it is illegal and an individual, particularly an African-American, can bring a lawsuit because the Civil Rights Act of 1866 allows lawsuits if hiring is denied because of racial discrimination, but it stops there. That is, the making and formation of a contract is over and therefore an African-American, again by way of example, cannot bring a lawsuit or other type of action to prevent racial harassment on the job.

The supporters of H.R. 1, and again I would agree here and state here that I agree, felt that this is too narrow, that to say that racial discrimination is prohibited when someone is hired, but right after they are hired they can be literally driven off the job through racial harassment, does not fit the intent of this act, and this decision was too narrow, and that is my view.

Well, I would like to stop right here for a moment and again emphasize that the five cases that I talked about, the five cases that form the basis of the proposal of H.R. 1, the Civil Rights Act of 1991 now, again do not look like each other. I am not saying that any one of them is not important. I am not saying that one is necessarily more important than another, although one become more important in the debate, I felt; but as such, they are all important, but they do not necessarily relate to each other. One can agree with one case and disagree with another, and in any combination of the five cases, and that led to a great deal of the complexity in the debate that I felt was not adequately covered, again probably because of lack of time. That is why I wished to take the floor.

Well, this gets even more complex because H.R. 1 does not stop with just those five Supreme Court cases. I have to say, for those who may be very familiar with this bill already, because of my own lack of time I am presenting what I would consider to be an overview. Each of the five cases I have just stated have more details than I went into, but at least I want to show more about the basics of what was in this bill.

Well, the five cases, or addressing the five cases, simply was not all that was in H.R. 1. More was in H.R. 1. Other cases were directly or indirectly referred to. For example, there is the Zeits case, I believe it is pronounced, in which the Supreme Court limited attacking discriminatory seniority sys-

tems. Obviously if there is a seniority system in a business and if that business in the past discriminated against certain groups because of their race, gender or religion or national origin, then the seniority system would perpetuate that discrimination, even if the discrimination itself had ended.

There is the Shaw case which said in many different contexts that a plaintiff who wins a judgment against the United States of America is not entitled to interest on that judgment if payment is delayed, though of course interest on a judgment against a private party, if a judgment is won, is normally a matter of fact, in the normal course of business, and I certainly agree again that should be reversed.

Well, in addition to addressing Supreme Court cases, the bill, H.R. 1, went even further than that. It put in certain provisions that were not addressed in any Supreme Court case, and to that extent there was some limited misstatement by supporters who would say that all we are doing here is addressing Supreme Court cases. That is all we want to do. We think the Supreme Court made some errors in interpretation and we wish to correct that. It did more than that.

One can agree with what they did or disagree, but that is not all they did.

Now, one of the things they did, for example, was to extend the statute of limitations for bringing a discrimination case, just as a general matter.

Another issue that had to be put into the bill, I acknowledge, is when does the bill become effective? In other words, assuming that H.R. 1 as originally written became law passed by both Houses and signed by the President or over a Presidential veto, it becomes effective when, all these changes in Supreme Court decisions?

Originally H.R. 1 said that it became effective retroactively to all cases that were pending at the time of the Supreme Court cases, including the Supreme Court case I referred to, and to any case filed in that interim. That means, for example, the cases themselves would be reversed if the plaintiffs went back into court and got a different result with those specific plaintiffs.

The supporters of that idea said that it is only fair, we are trying to correct certain Supreme Court decisions that we felt were erroneous, then it is only fair that we affect those specific plaintiffs who we think were not treated appropriately in those decisions; however, the opponents said, and in this case I agree with the opponents, that it is more unfair, if you will, to make a law apply backwards because it is unfair to put people at risk for decisions they made under the law as it was in effect. It is unfair to tell people, "You made a decision that was right at the time, but after the fact we are going back and we are going to tell you, you made a wrong decision and in some way you are going to be made legally responsible for that decision, even though it was perfectly correct at the time you made it, even though you got legal advice and followed it accordingly."

I agree with the opposition point that that is a greater inequity, and even if we should reverse all five decisions, reversal should be prospective in nature so that everybody is on notice as to what the law is and what their responsibility is.

Well, that is not all. The biggest addition made in H.R. 1 to the current law and not dealt with in any Supreme Court decision, a creation of the supporters, was allowing plaintiffs under the Civil Rights Act of 1964 to sue for damages as part of their relief, damages for being discriminated against and punitive damages to punish intentional—I stress intentional, not unintentional, but intentional racial discrimination.

□ 2040

That was also included in H.R. 1. Well, that is a summary, and I stress the word "summary," of the specific issues that were in H.R. 1.

The debate focused on a conclusion: Is this an effective civil rights act? All we are doing is straightening out some erroneous decisions by the Supreme Court. Even the word "erroneous" implies a criticism of the Supreme Court that I do not think its supporters intended, an interpretation not in line with what Congress intended when it passed the Civil Rights Act. Or, was it in fact a quota bill that would require employers to hire by the numbers?

That was the conclusionary matter of this debate.

As I said, personally I agree, in part, with both. I do not find that contradictory. Primarily, of course, it was the administration's charge that H.R. 1 is a quota bill. And they base that charge on two ideas. The first and primary idea most cited by administration people whom I have heard is that H.R. 1 is a quota bill and it should be stated that it was stated in the bill that it was specifically not a quota bill and quotas would not be allowed. But the argument was that, notwithstanding that language, employers would feel compelled to create a quota in their hiring. Most people on both sides of the aisle object to a quota.

So the issue was not whether quotas are good or bad, most people would agree they are not good, that in fact quotas are in a broad sense contradictory with the idea of equal opportunity.

A quota may be a floor, but it is also a ceiling. Once you have made your quota, then an employer has to hire somebody from another group. That really was not the issue. The supporters of the bill did not defend quotas.

The supporters of the bill said this was not a quota. The President said, the administration said this is a quota primarily because of the addition of the possibility of lawsuits as a remedy for intentional discrimination.

Right now in the Civil Rights Act of 1964 I believe that a lawsuit can be brought as well as a matter brought to the EEOC; but lawsuits may be limited in their remedies to things like back pay and so forth.

The argument was that opening up lawsuits creates the threat of more litigation, the threat of more damages and this will cause fear in the minds of employers to avoid the risk of being sued, particularly for damages now, so that they will institute a quota to protect themselves from being accused of intentional discrimination.

Frankly, I have not come to this conclusion. I should mention as a digression that the American public is going to hear this a lot, that lawyers, lawsuits, courts, juries, have been made a target in many respects such as health care costs, and this argument over and over again of how bad it is for people to be able to file lawsuits is going to be repeated.

Now I am not here to defend any particular idea against improvement. If a system can be made better, fairer, cheaper, I think we should look at it, certainly.

But I would just point out as a generality that the right to trial by jury as a general concept in our society was considered so important by the framers of the Constitution that they included it in the Bill of Rights, in the seventh amendment. It is true, I am not saying that that requires damages to be allowed in the Civil Rights Act of 1964; I am pointing out that the concept was not feared by the framers of the Constitution. The concept was put in the Bill of Rights.

Further, the reason I do not accept that argument that being able to sue for damages will force employers to cower in fear is going back to the civil rights of 1866, 42 U.S.C. 1891, it has always been possible for African-Americans to sue for employment discrimination in hiring at least. We get into the Patterson case of when can you sue and when can you not sue. But the right to sue has been there, the right to sue for damages has been there all along. There have been lawsuits, some have been won, some lost; but there is absolutely no evidence that African-Americans have been hired by the numbers. I am sure they would be the first to come forward and say that.

So if the right to file a lawsuit has not resulted in hiring quotas for African-Americans under the Civil Rights Act of 1866, why on Earth should it suddenly result in hiring quotas for other groups if they are allowed the exact equal procedural remedies available?

Now, there is a second reason given by the administration, however, and they list it second—I would list it first, obviously, since I do not agree with the administration's point. But there is a second reason why the H.R. 1 would lead to quotas, hiring by the numbers, but it deals with unintentional discrimination. That is, business practices which do not intend to discriminate but do.

This gets into the Ward's Cove case, which I will discuss for a moment. The Ward's Cove case got into this issue at length: When can and cannot a business have hiring practices which are neutral but which result in a disparity, disparate impact, in terms of who is actually hired or promoted? Of course, they dealt broadly with who has the burden of proof and so on.

Now, the Ward's Cove case refers to an earlier case that both sides seem to agree with, and want to adopt and want to keep. That is the case of Griggs versus Duke Power Co.

Now, the Griggs case in 1971 involved employees who in that case were African-Americans who could not be transferred out of one area of employment for this particular company to other areas. Other areas paid more, generally speaking, than the area they were confined in. The problem was that there was a requirement by the business that all employees, to transfer, have either a high school diploma or pass a certain test. This was a neutral requirement; all persons, regardless of race, regardless of gender, were required to meet this requirement.

Nevertheless, for reasons that are complex, the bottom line is we know that high school diplomas, for example, are less found among African-Americans and other minority groups than among the white population.

I mean that is a fact. We can discuss why that is a fact, but that is a fact.

Therefore, a requirement that all employees have a high school diploma is probably going to result, and did result in this case, in the fact that whites would be promoted and African-Americans would not be promoted.

The Supreme Court said that the Civil Rights Act of 1964 prevents more than intentional discrimination; that it prevents acts which are neutral on their face but which result in unintentional discrimination. But of course you can pass this kind of act intentionally. The original grandfather clause was passed in the Southern States. Everyone has heard of the grandfather clause. It was passed after the Civil War and after Reconstruction ended and Northern troops were withdrawn.

It simply said that if you want to vote in our State, your grandfather has to have been eligible to vote, and that applied to everybody, regardless of race—I cannot say gender, because unfortunately that was not allowed as a right to women anywhere that I know of—but the Southern States, everyone in order to vote can only vote if their grandfather could vote.

That does not apply to any particular race. But considering the fact, however, that obviously the grandfathers of the African-American citizens would have been slaves and could not vote, guess who could not vote under that provision? So it is obvious, it is possible to have a provision that is neutral on its face but results in discrimination.

The Supreme Court did not accuse Duke Power Co. of doing that here. In fact, the employees did not accuse the company. They simply said this provision results in disparate impact. And the Supreme Court said that disparate impact can also be prohibited by the Civil Rights Act of 1964 even if discrimination is, in fact, unintended.

Now, the Supreme Court found for the plaintiffs in this case, having stated the general idea; they did not say there could not be any kind of requirement for hiring or promotion. They said, and they used different wording throughout the case, and H.R. 1 and other bills take parts of this wording, each side therefore says, "We are using the wording from the Griggs case."

They said that the requirement has to meet the job performance requirement or, in other language, they say that business necessity of the employer in having a standard of some kind, it has to have manifest connection to the employment, and used other different words like that. As I say, different bills picked parts of those words.

□ 2050

But the main issue in Griggs, the main finding in Griggs, is that employers can have standards, but the standards have to relate to the employment, and I will put that in quotes because, whether it is employment or job performance, the impact wording is used interchangeably by the court and a subject of heated argument.

Now it is extremely interesting. What does it mean to be related to the job? In the Griggs case, and this is very significant in that case, they said that we are not going to deal with whether the employer can set up a requirement for broader reasons than the specific job that is being discussed. In other words, we are not going to deal here with: Can the employer have a requirement for hiring individuals based upon future ability to promote, for example? The Supreme Court said that because they said it was not raised by the employer in Duke Power Co. In Duke Power Co. the employer basically argued we have a right to have a test, we have a test, and what test we have is up to us, and the Supreme Court said, "No, you can't. It has to be related to the employer or has to be related to the job," and they found that having a high school diploma or passing these intelligence tests was not necessary to perform the jobs in the other areas of the company, and, therefore, having a requirement for this kind of test or this kind of diploma, which does not relate to the employment, but which has the edge of limiting African-Americans in this case, and others I am sure, is a violation of the Civil Rights Act of 1964.

Now the Wards Cove case in 1989 made further interpretation of the Griggs case on a number of fronts, and actually because my time is starting to run a little slim here I think that, rather than trying to go through each way Wards Cove addressed Griggs and how H.R. 1 addressed Wards Cove and other laws I am about to refer to affected each other, I think I best phrase it this way:

In deciding whether there is disparate impact, and can action be taken, and what are the defenses, the Wards Cove case raised certain issues, and how these issues are resolved, whether it is in Wards Cove, or whether it is in H.R. 1, or in any other bills makes it easier or less easy to say an employer is in fact violating the Civil Rights Act of 1964, and I would like to cite five of those points that are raised and discussed, and raised and discussed again, not only in this case, but in the bill.

First is proving that disparate impact exists. What statistics are used? Does one compare the number of racial minorities in lower level jobs with higher level jobs, or does one compare the number of racial minorities actually employed in the company as a whole with the job force available or with the general civilian population available? That is the first issue that is discussed, and it is very important in deciding this issue. Whose numbers do we use in other words?

Second of all, if once it is decided which numbers are examined to determine if there is in fact disparate impact at all, the second issue is: Must the employee or those who wish to be hired identify which of the employer's practices causes disparate impact? In Griggs they did that. They identified the high school diploma and the intelligence tests. Can an employee say, "Well, it must be one of a group of practices that the employer has, and here's a group of 20," and let it go at that?

Third, it is established; it was established in Griggs, that even if the employer is causing disparate impact through business practices, the employer can defend that if the employer has a business necessity for the practice involved. Now once again all individuals agree with that principle. Nobody disagrees with that that I heard, but the definition of business necessity is widely debated.

Fourth, if business necessity is adequately defined, does it have to be an

absolutely necessary business necessity or something that is good for the employer, but he or she could do without? How far can a business necessity be used?

Fifth, if it can be shown that the employer causes disparate impact and the employer raises the reason: "Well, yes, I do because my hiring practices are a business necessity to me," who has got the burden of proof of proving that? Does the employer have to prove this is a business necessity? Or does the employee have to prove it is not a business necessity?

Another extremely important issue here: H.R. 1 and the administration bill. I am going to wrap up here in a moment by talking about the different bills and votes. Both reverse the Wards Cove case.

For example, both said that, if business necessity is raised as a defense, if the employer says, "I have to do this; I'm sorry it causes disparate impact, but I just need it for my business," both the administration and H.R. 1 say the burden of proof is on the employer. I might add that I heartily agree with that, and that is in conformance with other general rules that, if an affirmative defense is raised, yes, I did it, but I had to because, that that normally transfers the burden of proof to the person who is raising that defense, and that is in both bills, and I agree with that.

Mr. Speaker, my conclusion on this issue is that when we put H.R. 1 and the administration's position side by side, on the whole the administration had the better position. The administration had the better position because it allowed greater flexibility on these issues for the employer, and I think that within a reasonable degree the employer should have a flexibility. If we narrow business necessity just to performing the job; if the job, for example, is folding pieces of paper, and we say that the employer cannot have any requirement to hire people except how well they fold pieces of paper; then I think we defeated the ability of employers to do many other things that we want business to do to be competitive.

I can think of innumerable examples. Just a couple: Suppose the employer wants the people to be bilingual or to agree to learn a second language because they want to do business in a country where English is not the predominant language. That could be a concept that goes beyond whether one can fold a paper. That could apply to, of course, doing business in sections of this country where English is not the predominant language. Let us suppose that the employer is thinking of opening up another branch elsewhere in the United States or even overseas and says, "If you want to come to work for us, you have to agree to work at least 1 year in our new overseas office, if we open it, so we could get it going," and I think that is another example where an employer has a legitimate need which goes beyond: Do you fold a piece of paper? The key words are: legitimate interests of the employers.

We do not want another grandfather clause. We do not want another provision that is intended to discriminate or results in discrimination without any rhyme or reason to it. But I think that the administration has the better position because of its greater flexibility to business which I think should be offered.

Mr. Speaker, let me conclude by going through one last area here, and that is the actual votes we took on the House floor. This became one more complexity because we had three different amendments to vote upon and then the procedures used in those amendments. When this reached the House floor, we had the original bill with three amendments offered. The first was the Towns-Schroeder amendment after our colleagues, Congressman TOWNS and Congresswoman SCHROEDER, which again, because of lack of time here, I would describe as the most like H.R. 1, the fewest changes to H.R. 1, basically a repetition of H.R. 1, though with some differences.

The second amendment that was offered was the Michel amendment after our distinguished minority leader, Congressman MICHEL, and it was the administration's bill which did not allow a suit for damages, but it had this broader business flexibility idea.

Third and finally, there was the Brooks-Fish amendment after our colleagues, JACK BROOKS and HAMILTON FISH, the chairman and ranking Republican, respectively, on the Committee on the Judiciary, which I think could fairly be described as an attempt to compromise between the first two.

Now I want to say that I voted in what might be considered an unusual fashion. Just stopping for a moment with the Towns-Schroeder substitute and the Michel substitute, I voted for both of those. Now since those were put as diametrically opposed to each other, how could one do that? Why would one do that? Well, it is because I agreed with parts of both. I agreed with the intentional discrimination provisions of the Towns-Schroeder, and I agreed with the business practices provisions of the administration's bill. The point is that voting for both; in other words, expressing myself this way, was made necessary because we were not allowed an open rule, meaning we were not allowed to freely amend these amendments. We had to vote yes or no on the Towns-Schroeder amendment, we had to vote yes or no on the Michel amendment, and we had to vote yes or no on the Brooks-Fish amendment.

□ 2100

We could not, and I have expressed how I would do it. Other Members would do it differently. We could not go up to the Towns-Schroeder amendment, the first one offered, and say, "I move to amend this to change paragraph 7 in this bill." It was not allowed by the Committee on Rules.

When we had the Towns-Schroeder amendment, we had to vote yes or no. That was our only choice. The same with the Michel amendment, and the same with the Brooks-Fish amendment.

Therefore, I voted yes twice, expressing support for two different parts of these two bills.

But it might be asked, was there not a risk then? Both these amendments failed. Neither the Towns-Schroeder amendment nor the Michel amendment received a majority of votes.

We then went on to vote for the compromise bill. I voted for it. That is now what is over in the other body. It can be rightfully asked, is there not a risk of a contradiction? Let us suppose that more than one of these passed. Is there not a risk you would have more than one bill going over to the Senate?

The answer is there was absolutely no risk. The reason there was no risk is because of another procedural means we have in this body called King of the Hill. King of the Hill is a little device that says where more than one amendment is offered, the last one that passes becomes the law, period, and it does not matter whether the first two passed or did not pass. It does not even matter if the first two passed by more votes.

In this particular case it was simply common knowledge that the Brooks-Fish substitute was going to pass. What that meant was that the first two amendments, the one offered, if you will, from the left, and the one offered from the right, were going to be defeated, no matter how many votes they got. Therefore, I could in fact vote for two, because they were both in effect dead as legislation anyway by the way the procedures were set up.

Let me conclude by talking about the future. We did pass the Brooks-Fish substitute. We have sent it over to the other body. Still another amendment, at least one, will be offered there. Perhaps more.

Mr. Speaker, my view is that we do need a bill. There are matters which need to be corrected in the decisions that have been made, as well as other aspects of civil rights legislation.

I simply urge Members to reduce the amount of acrimony that I have heard rise over this issue on both sides, and to seek to reach an intelligent overall compromise, that will do its best to compromise the various points, which I believe is possible, and which I believe can ultimately produce a bill that will advance our search for civil rights, and

which will not have the adverse effect of creating a quota.

TRIBUTE TO HAZELTINE NATIONAL GOLF CLUB, CHASKA, MN

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. RAMSTAD. Mr. Speaker, the people of Minnesota welcome golf fans from all over the world to the U.S. Open Golf Championship starting tomorrow at Hazeltine National Golf Club, Chaska, MN.

Mr. Speaker, I rise to salute the 3,500 dedicated volunteers in the Third District of Minnesota who have been working hard for several years to prepare to host the 91st U.S. Open Golf Championship.

Hazeltine National Golf Club in Minnesota is a fitting site for the world's most prestigious golf tournament. There are more golfers per capita in Minnesota than any other State, and more golfers in the Third District of Minnesota than any other area of the State.

This year's tournament promises to be one of the most exciting ever. Already the crowds at the three practice rounds have smashed all previous attendance records.

Based on the number of tickets sold, overall attendance records are sure to be broken. Minnesotans love golf and appreciate great talent. An unprecedented field of competitors has assembled.

The course itself has drawn rave reviews from these U.S. Open golfers, the best to judge the field of competition. Many of them have called Hazeltine the best test of gold for an Open in many years—tough but fair, immaculately conditioned, picturesque. This is a real credit to the staff at Hazeltine.

Mr. Speaker, today as the U.S. Open begins in Chaska, MN, I invite all my colleagues to see why the great State of Minnesota is the sports capital of the Nation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, today.

Mr. SCHIFF, for 60 minutes, today.

(The following Members (at the request of Mr. HUTTO) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WILLIAMS, for 60 minutes, on June 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PANETTA and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,521.

(The following Members (at the request of Mr. SCHIFF) and to include extraneous matter:)

Mr. GOODLING.

Mr. MOORHEAD.

Mr. SMITH of Oregon.

Mr. MACHTLEY.

Mr. PORTER.

Mr. SOLOMON.

Mr. DAVIS.

Mr. DORNAN of California in two instances.

Mr. SHAW.

Mr. CUNNINGHAM in two instances.

Mr. WOLF.

Ms. ROS-LEHTINEN.

Mr. HUNTER.

Mr. MCEWEN.

Mr. GEKAS.

Mr. SUNDQUIST.

Mr. GILMAN.

(The following Members (at the request of Mr. HUTTO) and to include extraneous matter:)

Mr. MILLER of California in two instances.

Mr. EDWARDS of California.

Mr. ACKERMAN.

Mr. FASCELL.

Mr. SCHUMER.

Mr. NEAL of Massachusetts.

Mr. REED.

Mr. BROWN.

Mr. STARK.

Mr. HOCHBRUECKNER.

Mr. HAMILTON.

Mr. MOAKLEY.

Mr. RANGEL.

Mr. LIPINSKI.

Mr. BUSTAMANTE.

Mrs. BOXER in two instances.

Mr. LAFALCE.

Mr. LANTOS.

Mr. ROE in two instances.

Mr. TORRES.

Mr. TOWNS.

Mr. SABO.

Mr. SOLARZ.

Mrs. LOWEY of New York.

Ms. SLAUGHTER of New York.

Mr. KILDEE.

Mr. HUBBARD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 426. An act for the relief of Abby Cooke; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

ADJOURNMENT

Mr. SCHIFF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, June 13, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1528. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the annual report on conditional registration of pesticides during fiscal year 1990, pursuant to 7 U.S.C. 136w-4; to the Committee on Agriculture.

1529. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the disposal of certain strategic and critical materials from the National Defense Stockpile and to amend the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.); to the Committee on Armed Services.

1530. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1990," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

1531. A letter from the Secretary of Education, transmitting a notice of Final Priority—Developmental Bilingual Education and Special Alternative Instructional Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1532. A letter from the Secretary of Education, transmitting a notice of Final Priority—Training Programs for Educators—Innovative Alcohol Abuse Education Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1533. A letter from the Secretary of Education, transmitting a draft of proposed legislation to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in

the use of public funds, to extend the act, and for other purposes; to the Committee on Education and Labor.

1534. A letter from the Assistant Secretary for Fossil Energy, Department of Energy, transmitting notification that the Strategic Petroleum Reserve Quarterly Report due May 15, 1991, has been delayed and expect to submit the report by June 17, 1991; to the Committee on Energy and Commerce.

1535. A letter from the Defense Security Assistance Agency, transmitting a copy of Transmittal No. 06-91, concerning a proposed Memorandum of Understanding Cooperative Project with the defense establishments of the Federal Republic of Germany, and the Kingdom of Norway, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1536. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Richard W. Carlson, of California, Ambassador-designate and members of his family pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1537. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of Treasury, transmitting a copy of an amendment to the Kuwait Assets Control Regulations, pursuant to Public Law 101-513, section 586C(c)(1) (104 Stat. 2048); to the Committee on Foreign Affairs.

1538. A letter from the Administrator, Agency for International Development and the First Vice President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, El Salvador, and Nicaragua, 1990, pursuant to 22 U.S.C. 2184(g); to the Committee on Foreign Affairs.

1539. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2127, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

1540. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Department's Office of Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1541. A letter from the Federal Cochairman, Appalachian Regional Commission, transmitting the semiannual report of the Office of Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1542. A letter from the Executive Secretary, Federal Reserve Employee Benefits System, transmitting a copy of the retirement plan for employees of the Federal Reserve System, as of December 31, 1990, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1543. A letter from the Director, Legislative Affairs, Department of Commerce, transmitting a report entitled, "U.S. Foreign Trade Highlights, 1990"; to the Committee on Ways and Means

1544. A letter from the Secretary, Department of Health and Human Services, transmitting the third annual report on Indian Sanitation Facility Deficiencies, pursuant to Public Law 100-713, section 302 (102 Stat. 4815); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

1545. A letter from the Acting Secretary of the Treasury, transmitting the Department's 1991 report on intermarket coordination, pursuant to section 8(a) of the Market Reform Act of 1990; jointly to the Committees on Energy and Commerce, Banking, Finance and Urban Affairs, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 174. Resolution waiving certain points of order during consideration of H.R. 2608, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-107). Referred to the House Calendar.

Mr. OBEY: Committee on Appropriations. H.R. 2621. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-108). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROYBAL: Committee on Appropriations. H.R. 2622. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-109). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee of Conference. Conference report on S. 64 (Rept. 102-110). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GOODLING (for himself, Mr. RIDGE, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. HOUGHTON, and Mr. REGULA):

H.R. 2620. A bill to amend the National Labor Relations Act to prevent discrimination based on participation in an economic strike; to the Committee on Education and Labor.

By Mr. OBEY:

H.R. 2621. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. ROYBAL:

H.R. 2622. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. BUSTAMANTE:

H.R. 2623. A bill to amend title 10, United States Code, to permit the expansion of the dental program for spouses and children of members of the Armed Forces; to the Committee on Armed Services.

By Mrs. COLLINS of Illinois (for herself, Mr. GEPHARDT, Mr. KOSTMAYER, Mr. BRUCE, Mr. MANTON, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. LEVIN of Michigan, Mr. BRYANT, Mr. SIKORSKI, Mr. ECKART, Mr. MINETA, Mr. WISE, Mr. DURBIN, and Mrs. BENTLEY):

H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. COMBEST:

H.R. 2625. A bill to amend title 44, United States Code, to provide for improved identification and assessment of the paperwork burden imposed on beneficiaries of health care services and providers of such services, and to provide for the reduction of such burden; to the Committee on Government Operations.

By Mr. DELLUMS:

H.R. 2626. A bill to eliminate certain obsolete reporting requirements for the District of Columbia; to the Committee on the District of Columbia.

By Mr. GOODLING (by request):

H.R. 2627. A bill to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the act, and for other purposes; to the Committee on Education and Labor

By Mr. JOHNSON of South Dakota (for himself, Mr. OBEY, Mr. DORGAN of North Dakota, Mr. LAROCCO, Mr. MOODY, Mr. NAGLE, Mr. PETERSON of Minnesota, Mr. SANDERS, and Mr. STALLINGS):

H.R. 2628. A bill to amend the Agricultural Act of 1949 to establish a two-tier price support program for milk to operate in any year in which the Commodity Credit Corporation purchases of milk will exceed 4,500,000,000 pounds and to establish a minimum solids content for fluid milk; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. LAFALCE:

H.R. 2629. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

By Mr. ORTIZ:

H.R. 2630. A bill to provide that immigration judges, for purposes of determining compensation, be treated in the same manner as administrative law judges; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 2631. A bill to amend the Clayton Act and the Defense Production Act of 1950 with respect to notification of certain mergers and acquisitions, and for other purposes; jointly, to the Committees on the Judiciary, Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. STARK (for himself and Mr. ROEMER):

H.R. 2632. A bill to amend the Internal Revenue Code of 1986 to deny the benefits of the Puerto Rico and possession tax credit in the case of runaway plants; to the Committee on Ways and Means.

By Mr. WOLF:

H.R. 2633. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for individuals with young children; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. HAMILTON, Mr. BERMAN, Mr. GEJDENSON, Mr. LANTOS, Mr. LEVINE of California, Mr. WEISS, Mr. LAFALCE, Mr.

GEPHARDT, Mr. GILMAN, Mr. OBEY, and Mr. MILLER of Washington):

H.J. Res. 270. Joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters; to the Committee on Foreign Affairs.

By Mr. MINETA (for himself, Mr. MATSUI, Mr. HORTON, Mr. HOYER, Mrs. MINK, Mr. MILLER of California, Mr. EDWARDS of California, Mr. LEVINE of California, and Mr. JONES of Georgia):

H.J. Res. 271. Joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. GEKAS:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress relating to investigation of the Medicare Program and the high cost of durable medical equipment provided by certain health care suppliers; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RITTER:

H. Res. 175. Resolution concerning the Republic of Latvia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

181. By the SPEAKER: Memorial of the Senate of the State of Louisiana, relative to England Air Force Base; to the Committee on Armed Services.

182. Also, memorial of the Senate of the State of Alaska, relative to Federal legislation against violence to women; to the Committee on the Judiciary.

183. Also, memorial of the General Assembly of the State of Colorado, relative to the desecration of the U.S. flag; to the Committee on the Judiciary.

184. Also, memorial of the House of Representatives of the State of Alaska, relative to the Federal highway trust fund and the federally aided highway program; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 196: Mr. JEFFERSON, Mr. DIXON, Mr. PAYNE of New Jersey, Ms. NORTON, and Mr. CLAY.

H.R. 300: Mr. NEAL of Massachusetts.

H.R. 640: Mr. STENHOLM.

H.R. 645: Mr. VALENTINE and Mr. KANJORSKI.

H.R. 667: Mr. STAGGERS, Mr. WYDEN, Mr. OWENS of New York, Mr. KANJORSKI, and Mr. MARKEY.

H.R. 710: Mr. PACKARD, Mr. HAMMERSCHMIDT, Mr. MCMILLEN of Maryland, Mr. PORTER, Mr. MACHTLEY, Mr. TAYLOR of Mississippi, Mr. SCHAEFER, Mr. BRYANT, and Mr. WILSON.

H.R. 841: Mr. MILLER of California.

H.R. 906: Mr. STARK.

H.R. 907: Mr. NAGLE and Mr. HORTON.

H.R. 967: Mr. LEWIS of Georgia.

H.R. 1061: Ms. NORTON.

H.R. 1062: Ms. NORTON.

H.R. 1080: Mr. HAYES of Illinois and Mr. SENSENBRENNER.

H.R. 1116: Mr. BOUCHER.

H.R. 1124: Mr. EVANS, Mr. HAYES of Illinois, and Mr. MACHTLEY.

H.R. 1147: Mr. BLAZ, Mr. PERKINS, Mr. MCMILLAN of North Carolina, Mr. PRICE, Mr. ERDREICH, Mr. BILIRAKIS, and Mrs. MORELLA.

H.R. 1156: Mr. KYL, Mr. ANDERSON, Mr. DANNEMEYER, and Mr. ECKART.

H.R. 1277: Mr. CARR, Mr. CAMPBELL of California, Mr. HALL of Texas, Mr. ZELIFF, Mr. THOMAS of California, Mr. JOHNSON of Texas, Mr. NICHOLS, Mr. BARTON of Texas, Mr. DAVIS, Mr. HUTTO, Mr. ROE, Mr. HARRIS, Mr. DARDEN, Mr. TORRICELLI, Mr. TAYLOR of Mississippi, Mr. NEAL of Massachusetts, Mr. TANNER, Mr. MURTHA, Mr. BILBRAY, Mr. MURPHY, Mr. STENHOLM, Mr. MILLER of Ohio, Mr. BACCHUS, Mr. HAYES of Louisiana, Mr. TORRES, Mr. ORTIZ, Mr. MCCANDLESS, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. DYMALLY, Mr. SANGMEISTER, Mr. LAGOMARSINO, Mr. LEACH, Mr. TAUZIN, Mr. FEIGHAN, Mr. ROWLAND, and Mr. BENNETT.

H.R. 1300: Mr. BEILENSON.

H.R. 1328: Mr. KOPETSKI and Mr. BROWN.

H.R. 1345: Mr. BALLENGER and Mrs. BYRON.

H.R. 1346: Mr. LEHMAN of California.

H.R. 1385: Mr. BONIOR, Mrs. MINK, Mr. HAYES of Illinois, Mr. MCCLOSKEY, and Mr. GAYDOS.

H.R. 1406: Mr. SKEEN, Mrs. BENTLEY, Mr. GILCHREST, Mr. HAYES of Louisiana, Mr. CHANDLER, Mr. MAVROULES, Mr. FROST, and Mr. AUCOIN.

H.R. 1430: Mr. HOCHBRUECKNER and Mr. TRAFICANT.

H.R. 1450: Mr. DURBIN, Mrs. LLOYD, Mr. DIXON, Mr. SHUSTER, Mr. CRAMER, Mr. PETRI, Mr. KILDEE, Mr. ARCHER, Mr. LUKEN, and Mr. AUCOIN.

H.R. 1454: Mr. SANDERS.

H.R. 1525: Mr. PEASE.

H.R. 1538: Mr. BENNETT, Mr. ECKART, and Mr. STARK.

H.R. 1597: Mr. SCHEUER.

H.R. 1601: Mr. KOSTMAYER.

H.R. 1677: Mr. NEAL of North Carolina.

H.R. 1723: Mr. BUSTAMANTE and Mr. FISH.

H.R. 1733: Mr. COLEMAN of Texas, Mr. PRICE, Mr. DORGAN of North Dakota, Mr. SABO, and Mr. GUARINI.

H.R. 2213: Mr. ROE, Mr. TOWNS, Mr. DURBIN, Mr. LANCASTER, and Mr. FROST.

H.R. 2224: Mr. KOSTMAYER and Mr. MACHTLEY.

H.R. 2254: Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANNUNZIO, Mr. BACCHUS, Mr. BEILENSON, Mr. BURTON of Indiana, Mr. CRANE, Mr. LEHMAN of Florida, Mr. FOGLIETTA, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mrs. LLOYD, Ms. ROS-LEHTINEN, Mr. LENT, Mr. HERTEL, Mr. KOPETSKI, Mr. ENGEL, Mr. HOUGHTON, Mr. SISISKY, Mr. DORNAN of California, Mr. ERDREICH, Mr. SOLARZ, Mr. SCHUMER, Mr. WOLPE, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. SCHEUER, Mr. WAXMAN, Mr. GREEN of New York, Mr. FASCELL, Mr. YATRON, Mr. GEJDENSON, Mr. MCHUGH, Mr. MCNULTY, Mr. FEIGHAN, Mr. HORTON, Mr. EVANS, Mr. WEISS, Mr. MARKEY, Mrs. LOWEY of New York, Mr. LEVINE of California, Mr. LANCASTER, Mr. FROST, Ms. NORTON, Mr. SLATTERY, Mr. DELLUMS, Mr. SMITH of Florida, Mr. DURBIN, Mr. ZELIFF, Mr. GILMAN, Mr. SERRANO Mrs. VUCANOVICH, Mr. UPTON, Mr. KOLBE, Mr. MILLER of Washington, Mr. PANETTA, Mr. FALEOMAVAEGA, Mr. SOLOMON, Mr. MRAZEK, and Mr. MONTGOMERY.

H.R. 2257: Mr. WEBER.

H.R. 2258: Mr. ANDREWS of New Jersey, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. MCCLOSKEY, Mr. MURTHA, Mr. RANGEL, Mrs. SCHROEDER, Mr. SLATTERY, Mr. TOWNS, and Mr. WALSH.

H.R. 2279: Mr. NEAL of Massachusetts.

H.R. 2335: Mr. NEAL of Massachusetts.

H.R. 2351: Mr. WYDEN.

H.R. 2374: Ms. PELOSI and Mrs. UNSOELD.

H.R. 2393: Mr. PAYNE of New Jersey, Mr. ROE, and Mr. FASCELL.

H.R. 2394: Mr. PAYNE of New Jersey, Mr. ROE, and Mr. FASCELL.

H.R. 2419: Mr. HAYES of Illinois, Mr. INHOFE, and Mr. KILDEE.

H.R. 2448: Mr. COLEMAN of Texas, Mr. HAYES of Illinois, Mr. JONES of North Carolina, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. MOLLOHAN, Mr. NOWAK, and Mr. VENTO.

H.R. 2470: Mr. WEBER and Mr. WILSON.

H.R. 2492: Mr. ECKART.

H.R. 2515: Mr. DWYER of New Jersey, Mr. DUNCAN, Mr. ANDREWS of New Jersey, Mr. TAYLOR of North Carolina, Ms. MOLINARI, Mr. EMERSON, Mr. PETERSON of Florida, Mr. DEFAZIO, and Mr. MAZZOLI.

H.R. 2566: Mr. BONIOR, Mr. PETRI, Mr. ROSE, Mr. INHOFE, Mr. GONZALEZ, Mr. DARDEN, Mr. HATCHER, and Mr. ROWLAND.

H.R. 2579: Mr. HORTON, Mr. MARTIN, and Mr. ROYBAL.

H.R. 2584: Mr. HORTON and Mr. ABERCROMBIE.

H.J. Res. 67: Mr. MARKEY, Mr. LEHMAN of Florida, Mr. BORSKI, and Mr. LEACH.

H.J. Res. 102: Mr. SKELTON, Mr. MCDERMOTT, Mr. MARTIN, Mr. HOBSON, Mrs. COLLINS of Illinois, Mr. BACCHUS, Mr. GUARINI, Mr. BARNARD, Mr. BORSKI, Mr. SHAYS, Mr. CARDIN, Mr. CARPER, Mr. COBLE, Mr. FROST, Mr. DAVIS, Mr. DARDEN, Mr. DICKINSON, and Mr. DELLUMS.

H.J. Res. 140: Mr. HOCHBRUECKNER, Mr. DUNCAN, Mrs. LLOYD, Mr. HOUGHTON, Mr. KLECZKA, Mr. TAUZIN, Mr. JACOBS, Mr. GEREN of Texas, Mr. HAYES of Louisiana, Mr. KENNEDY, Mr. ABERCROMBIE, Mr. SAWYER, Mr. ASPIN, and Mr. GONZALEZ.

H.J. Res. 152: Mr. LAGOMARSINO, Mr. GOODLING, and Mr. RAY.

H.J. Res. 207: Mr. SIKORSKI, Mr. NEAL of North Carolina, Mr. KASICH, Mr. COLEMAN of Texas, Mr. VALENTINE, Mr. CHAPMAN, Mr. RAVENEL, Mr. STOKES, Mr. TAYLOR of North Carolina, Mr. BERMAN, Mr. COOPER, Mr. MOODY, Mr. MANTON, Mr. MARKEY, Mr. SANGMEISTER, Mr. FAZIO, Mr. DE LUGO, Mr. PRICE, Mrs. KENNELLY, Mr. BRUCE, Mr. SPRATT, Mr. MACHTLEY, Mr. KILDEE, Mr. MCCOLLUM, Mr. ASPIN, Mr. RICHARDSON, Mr. SCHEUER, Mr. WYDEN, Mr. LAUGHLIN, Mr. MOAKLEY, Mr. SCHULZE, Mr. IRELAND, Mr. GALLO, Mr. FEIGHAN, Mr. MORRISON, Mr. HALL of Texas, Mr. EDWARDS of Texas, Mr. FROST, Mr. STENHOLM, Mr. GEREN of Texas, Mr. DELAY, Mr. CHANDLER, Mr. HATCHER, Mr. MURTHA, Mr. HOAGLAND, and Mr. LOWERY of California.

H.J. Res. 216: Mr. ANNUNZIO.

H.J. Res. 229: Mr. MCGRATH, Mr. KASICH, Mrs. KENNELLY, Mr. BRYANT, Mr. WOLF, Mr. MCMILLAN of North Carolina, Mr. KILDEE, Mr. VALENTINE, Mrs. COLLINS of Illinois, Mr. MRAZEK, Mr. MATSUI, and Mr. SAXTON.

H.J. Res. 238: Mr. HORTON, Mr. PAYNE of Virginia, Mr. CLEMENT, Mr. MCDERMOTT, Mr. QUILLEN, Mr. SMITH of Florida, Mr. ERDREICH, Mr. DEFAZIO, Mr. GUARINI, Mr. BUSTAMANTE, Mr. RANGEL, Ms. NORTON, Mr. WALSH, Ms. KAPTUR, and Mr. ESPY.

H.J. Res. 255: Mr. PETERSON of Florida, Mr. KENNEDY, Mr. PAXON, Mr. BILIRAKIS, Mr. WOLF, Mr. BLAZ, Mr. MCMILLEN of Maryland, Mr. HORTON, Mr. ERDREICH, Mr. SMITH of Florida, Mr. BRYANT, Mr. ABERCROMBIE, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. WAXMAN, Mrs. JOHNSON of Connecticut, Mr.

McNULTY, Mr. BATEMAN, Mr. CLEMENT, Mr. BEVILL, Mr. SKEEN, Mr. RITTER, Mr. QUILLEN, Mrs. VUCANOVICH, Mr. ANDREWS of New Jersey, Mr. ATKINS, Mr. BREWSTER, Mr. COBLE, Mr. DAVIS, Mr. DICKINSON, Mr. DICKS, Mr. DONNELLY, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. GALLO, Mr. FOGLIETTA, Mr. FALEOMAVAEGA, Mr. ESPY, Mr. FAWELL, and Mr. GILCHREST.

H. Con. Res. 18: Ms. NORTON.

H. Con. Res. 63: Mr. ZIMMER.

H. Con. Res. 81: Mr. KASICH.

H. Con. Res. 100: Mr. ANDERSON, Mr. KASICH, Mr. TRAFICANT, Mrs. UNSOELD, Mr. BUSTAMANTE, Mr. THOMAS of Georgia, Mr. TAUZIN, Mr. TRAXLER, Mr. VOLKMER, Mr. CLEMENT, Mr. DYMALLY, Mr. YATRON, Mr. RITTER, Mr. DARDEN, Mr. RHODES, Mr. PESHARD, Mr. DONNELLY, Mr. HOCHBRUECKNER, Mr. FRANKS of Connecticut, Mr. GILMAN, Mr. FROST, Mr. FAZO, Mr. UPTON, and Mr. RIGGS.

H. Con. Res. 150: Mr. DE LUGO, Mr. FRANK of Massachusetts, Mr. GORDON, Ms. KAPTUR, Mr. MCDERMOTT, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER of New York, and Mr. Wyden.

H. Con. Res. 163: Mr. AUCOIN, Mr. SHAYS, Mr. BEVILL, Mr. MAVROULES, Mr. ROE, Mr. JEFFERSON, Mr. WAXMAN, Mrs. JOHNSON of Connecticut, Mr. HARRIS, Mr. RITTER, Mr. LOWERY of California, and Mr. SERRANO.

H. Res. 139: Mr. PAYNE of Virginia, Mr. JONTZ, Mr. LAGOMARSINO, Mr. DAVIS, Mr. INHOFE, Mr. HENRY, Mr. RIGGS, Mr. HUCKABY, Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. HARRIS, Mrs. PATTERSON, and Mr. FIELDS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 392: Mr. CHANDLER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

87. By the SPEAKER: Petition of the Mayor and Council of the City of Sweetwater, FL, relative to the Fair Labor Standards Act; to the Committee on Education and Labor.

88. Also, petition of the mayor and council of the city of Sweetwater, FL, relative to amending the election laws; to the Committee on House Administration.

89. Also, petition of the mayor and council of the city of Sweetwater, FL, relative to amending the election laws; to the Committee on House Administration.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mr. BURTON of Indiana

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 30 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 25 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 50 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizatons for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizatons from visiting India in order to monitor human rights conditions in that country.

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 75 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

—Page 671: In the Statement of Policy, delete section 1023(b)(3), and insert in lieu thereof the following:

(3) supports the fundamental right of self-determination for the people of Eritrea, and supports the exercise of that right by means of an internationally supervised referendum on Eritrea;

By Mr. KANJORSKI:

—On page 488, line 10, after the word "articles" insert

", other than construction equipment including but not limited to tractors, scrapers, loaders, graders, bulldozers, trucks, generators and compressors,"

By Mr. LAGOMARSINO:

—Page 381, line 7, after "(a) STATEMENT OF POLICY.—" insert "(1) POLICY TOWARD PAKISTAN.—"

—Page 381, line 24, insert the following new section:

"(2) REGIONAL NUCLEAR NON-PROLIFERATION POLICY.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can best be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan, India and the People's Republic of China on non-proliferation. Such a policy should have as its ultimate goal concurrent accession by Pakistan, India and the People's Republic of China to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

—On page 383, line 3, after the words "ANNUAL CERTIFICATION.—", insert "(1) CERTIFICATION ON PAKISTAN.—".

—On page 383, line 16, insert the following new paragraph:

"(2) CERTIFICATION ON INDIA.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the autorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that India has agreed to place all plutonium produced in the U.S.-supplied fuel for the Tarapur nuclear power plant (under the "Tarapur Agreement") under International Atomic Energy Agency safeguards after the Tarapur Agreement has ended.".

—On page 383, in subsection (e), after the word "Pakistan" in each case in which it occurs, insert the words "and India".

—On page 38, strike line 16 through page 384, line 14.

—On page 384, line 15 insert the following new section and renumber the following sections accordingly:

"SEC. 5505. ASSISTANCE FOR INDIA.

"(a) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

—On page 384, line 15 insert the following new section and renumber the following sections accordingly:

"SEC. 5505. ASSISTANCE FOR INDIA

"(a) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(b) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (c), unless a certification under subsection (a) is in effect as of September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(c) IF A CERTIFICATION IS MADE.—If a certification under subsection (a) is made in a fiscal year after the prohibition in subsection (b) applies, funds for assistance, sales, or transfers described in subsection (b) may be allocated for India pursuant to the reprogramming provisions of section 6304 of the Foreign Assistance Act or pursuant to a subsequent appropriation act."

By Mr. McCOLLUM:

—Page 712, after line 12, insert the following:

(c) RESTRICTION ON PROGRAMS IN LAOS.—The Peace Corps may not carry out programs in Laos until the President determines and so reports to the appropriate congressional committees, that the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

—Page 128, strike out from line 5 "SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS", through page 134, line 7, and page 139, line 17, "SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT", through page 143, line 22, and redesignate Sec. 2302, Sec. 2304, and Sec. 2305 as Sec. 2301, Sec. 2302, and Sec. 2303.

—Page 128, strike out from line 3 "CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES" through page 144, line 25, Sec. 2301 through Sec. 2305, and redesignate "CHAPTER 4" as "CHAPTER 3".

—Page 128, strike out from line 5 "SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS" through page 134, line 7, and redesignate Sec. 2302, Sec. 2303, Sec. 2304, Sec. 2305, as Sec. 2301, Sec. 2302, Sec. 2303, Sec. 2304.

By Mr. PORTER:

—Page 614, Line 4, after "AND" the second time it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND" and page 615 strike out lines 22 through 24 and insert in lieu thereof the following:

(2) any indigenous nongovernmental organization in the Soviet Union that promotes democratic reform, human rights, the rule of law, or market oriented reforms, and

(3) any governmental agencies in the Soviet Union that promote democratic reforms, human rights, the rule of law, or market oriented reforms, except that funds made available under this section may be expended for technical assistance for such an agency but may not be provided directly to such an agency.

—On page 614, line 24, strike "or" and insert ",human rights, the rule of law, or".

—Page 614, Line 4, after "AND" the second time it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND" and page 615 after line 24 insert the following:

(3) any governmental agencies in the Soviet Union that promote human rights and the rule of law, except that technical assistance provided under this paragraph must be used for the purpose of bringing together U.S. federal judges and Soviet judges from the federal and republic levels and prosecutors, court employees, law students, and other legal professionals for the purpose of conducting a dialogue on the independence of the judiciary, the proper role of the courts in a free society, and other legal and judicial issues, except that funds made available under this section may be expended for technical assistance for such an agency but may not be provided directly to such an agency.

—On page 614, line 24, strike "or" and insert ", human rights, the rule of law, or".

By Mr. SCHUMER:

—Page 665, after line 2, insert the following new section:

Sec. . Expressing the sense of Congress that Japan should fulfill its commitment to defend the air space and sea lanes within 1,000 nautical miles of Japan.

(a) FINDINGS.—

(1) Japan agreed in 1981 to assume from the United States the defense of the air space and sea lanes within 1,000 nautical miles of Japan;

(2) successful fulfillment of this mission requires extensive early warning and command and control capability which can only be provided by AWACS aircraft;

(3) after 10 years Japan has not purchased any of the vital early warning aircraft or the refueling tankers needed to support such aircraft;

(4) Japan's current five-year defense plan calls for the purchase of only 4 of the 12 to 14 AWACS planes and none of the refueling tankers required to assume this mission;

(5) the United States continues and will continue, under present Japanese planning, to provide the AWACS capability needed to defend Japanese air and sea space; and

(6) the United States will need to draw upon all of its AWACS capability in the future for the verification of arms reduction treaties and the protection of United States forces engaged in operations abroad like Operation Desert Storm: Now, therefore, be it

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Japan must live up to its commitment to defend its own air space and sea lanes out to 1,000 nautical miles;

(2) Japan must alter its defense plans to include the purchase of the requisite number of AWACS early warning aircraft and support tankers; and

(3) the Department of State should enter into negotiations with Japan leading to the successful assumption by Japan of the 1,000-mile defense mission.

By Mr. SOLOMON:

—Page 644, lines 4 and 5: Delete "IRAN, IRAQ, LIBYA, PAKISTAN, AND SYRIA." and insert in lieu thereof "CERTAIN COUNTRIES."

—Page 644, lines 21 and 22: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and such terrorist states as Iran, Iraq, Libya, and Syria".

—Page 645, lines 5 and 6: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and such terrorist states as Iran, Iraq, Libya, ans Syria".

By Mr. TAYLOR of Mississippi:

—On page 488, line 10, after the word "articles" insert ", other than construction equipment including, but not limited to, tractors, scrapers, loaders, graders, bullbozers, trucks, generators and compressors,"

By Mr. TORRICELLI:

—Page 566, strike out line 18 and all that follows through line 14 on page 568 (section 817) and insert in lieu thereof the following:

SEC. 817. DEMOCRATIC REFORM AND HUMAN RIGHTS IN KUWAIT.

(a) FINDINGS.—The Congress finds that—

(1) because the United States and its allies committed their armed forces and resources to the liberation of Kuwait, the United States and its allies have a special interest and responsibility with respect to the future of Kuwait; and

(2) it is United States policy to promote respect for internationally recognized human rights and the development of democratic institutions in Kuwait and around the world.

(b) REPORT.—Not later than sixty days after enactment, the President shall report to the appropriate congressional committees whether the Government of Kuwait—

(1) has put an end to the occurrences of arbitrary arrest, torture and other extrajudicial actions;

(2) has taken significant steps to bring to justice to those responsible for perpetrating such abuses;

(3) has ensured that those detained have access to legal counsel, the right to an open and speedy trial, and other internationally recognized standards of due process of law;

(4) is taking firm steps to terminate martial law and to restore full constitutional processes;

(5) has continued to allow the presence and activities of international human rights and humanitarian organizations; and

(6) remains committed to the October 1992 date established for parliamentary elections, is taking the necesary steps to establish conditions to ensure that such elections are free and fair, and is permitting universal suffrage.

(c) The President and the Congress shall take into account progress on the above-

mentioned factors when determining United State policies toward Kuwait, including policies regarding the sale of defense articles and defense services.

SENATE—*Wednesday, June 12, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9:48 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia.

The PRESIDING OFFICER. The prayer will be offered by Rabbi Shmuel M. Butman, director of Lubavitch Youth Organization.

PRAYER

Rabbi Shmuel M. Butman, director, Lubavitch Youth Organization, Brooklyn, NY, offered the following prayer:

Let us pray:

Dear G-d, with Your bountiful mercy we have just celebrated the 50th anniversary of the arrival to these shores of the revered leader of world Jewry, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, Shlita.

In these 50 years, the Rebbe has, with Your divine help, enriched the educational, religious, moral, and ethical lives of millions of people—of all walks of life—throughout the world, and has made this world a better place to live in.

The Rebbe has called this year—5751 in the Jewish calendar, "The Year of Revealed Miracles."

The Rebbe, who was recently honored by this Senate on his 89th birthday, made this classification more than a year ago. And it is indeed happening now.

As the year has unfolded, we have seen hundreds of thousands of Jews from the Soviet Union arrive in Israel to start a new life. We were also witness to a crisis in the Middle East of international proportions and gravest implications.

We thank You, dear G-d, for the miraculously low casualties among the allied forces led by the United States of America, and thank You, dear G-d, that our troops have returned home—and are returning home—safely.

The Rebbe says that the reason we saw so many miracles this year, and are constantly seeing miracles in our daily lives, is due to the fact that You, Almighty G-d, are preparing the world for the miracle of miracles, the final redemption.

We ask you, dear G-d, to give us the strength to accelerate that process and the inspiration to do an extra good deed each day. In this spirit, dear G-d, I would like to take this opportunity to put a dollar bill, on which the words "In G-d We Trust" are imprinted, into this pushke—charity box.

This charity box reminds us all that we have an obligation not only to ourselves and our families, but, also, indeed, to our neighbors and to society in general.

Help us, dear G-d, to bring this message of charity and of the final redemption to all the people in these great United States, and around the world.

Almighty G-d, in Your infinite wisdom, You have established the Members of the Senate as the custodians of honesty and decency, justice, and peace for all peoples in the United States and, through the United States as the moral super power, for all the people of this planet.

We pray, dear G-d, that You continue to bestow Your bounty upon all of the Members of this body. May they merit, dear G-d, to have a "Year of Revealed Miracles" in their communal, national, and international endeavors, as well as in their private lives.

And let us all say: 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, June 12, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there now will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE GUEST CHAPLAIN

Mr. MOYNIHAN. Mr. President, the opening prayer this morning was delivered by Rabbi Shmuel M. Butman of Brooklyn, NY—the director of the Lubavitch Youth Organization.

Most of the Members of the Senate are familiar with the dynamic work of the Lubavitch movement, which has branches in over 40 States and 100 nations. This extraordinary network of religious, educational, and cultural undertakings is led by an exceptional spiritual leader, Rabbi Menachem Mendel Schneerson, the seventh rabbi of Lubavitch. It is most appropriate that Rabbi Schneerson this week celebrates the 50th anniversary of his arrival in this country.

Rabbi Schneerson recently entered his 90th year. I know I speak for the entire Senate when I ask Rabbi Butman to convey to him our hearty best wishes for many years of continued inspired leadership.

I have met with Rabbi Schneerson on several occasions. New Yorkers of all faiths are proud that the world headquarters of Lubavitch is located in the Crown Heights section of Brooklyn where it was relocated in 1940 by the current Rebbe's venerable predecessor and father-in-law, Rabbi Joseph Schneerson.

Many Members of the Senate are familiar with the role that a member of this body played in securing the release of Rabbi Joseph Schneerson from a Soviet prison and the emigration of his entire immediate family, including the current Rebbe, from Stalin's Russia. The intervention of Senator William Borah of Idaho on behalf of this beleaguered Chassidic family stands as a noble example of courageous moral leadership. All of us in public life would do well to ponder Senator Borah's oft-repeated explanation as to his motive in leading an international campaign to save an apparently obscure religious leader in a faraway land, "I like to do things that get me votes in that final election we will all have to stand for someday."

I thought of Senator Borah last year when I visited Morocco in my capacity as chairman of the Senate Foreign Relations Committee's Subcommittee on the Middle East and South Asia.

When I met with the Jewish leaders of Morocco and toured several of their synagogues and civic centers I discovered two pictures in every building—His Majesty King Hassan II and the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson.

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

This should not surprise anyone who is familiar with the Rebbe's historic role in supporting Jewish education and Jewish continuity throughout the world.

Lubavitch is deeply involved in many nations around the globe where it is the only official Jewish presence and the only source of Jewish educational and religious training. And some day, hopefully soon, the full story will be told of Lubavitch's heroic role in keeping Judaism alive in lands of cruel tyranny where teaching the Bible is a crime and uttering a public prayer is rewarded with a prison sentence.

For 40 years these remarkable activities—the publicized and the clandestine; the Chanukah lamp lighting on television and the underground matzah baking under the noses of Communist secret police, the young women giving out Sabbath candles on Fifth Avenue, and the Yeshiva schools in Arab lands—have been directed and inspired by Rabbi Menachem Mendel Schneerson.

I would like to welcome his talented disciple Rabbi Shmuel Butman to the Senate and thank him for his moving words of prayer.

The ACTING PRESIDENT pro tempore. The Chair, in his capacity as the junior Senator from the State of West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, before beginning, I want to indicate to my colleagues and see if there is any objection to my proceeding for a full 5 minutes.

We had General Schwarzkopf testifying before the Senate Armed Services Committee, and I was necessarily delayed from coming here. I have spoken with Senator REID, who is scheduled to begin debate on the highway bill at 10 o'clock, and he has indicated he would have no objection to my proceeding past the 10 o'clock hour.

I ask unanimous consent that I be allowed to speak for a full 5 minutes.

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

BUILDING A CONSENSUS FOR DEPLOYING STRATEGIC DEFENSES

Mr. COHEN. Mr. President, in his State of the Union Address, President Bush announced a reorientation of the SDI Program toward defenses against limited ballistic missile attacks against the United States, allies, and U.S. forces overseas. In response to the President's decision, SDIO proposed a new defense concept it calls GPALS, or global protection against limited strikes. I hesitate to call GPALS a new concept, since it really is just a scaled-back version of the same program SDIO was pursuing before the President's decision, merely reducing the number of interceptors intended to be initially deployed.

Because of this fact, the debate on SDI over the past few months has focused on what I consider to be a secondary question regarding the role of space-based interceptors. For those who question SDIO's new GPALS proposal, the central issue has become SDIO's vigorous support for the spaced-based Brilliant Pebbles interceptors, which they view as an excuse for abrogating the ABM Treaty. As a result, Members who are inclined to support the deployment of some type of limited strategic defense system find themselves forced to oppose the President on SDI.

Similarly, many ardent SDI advocates, including some within SDIO, seem to argue that the Brilliant Pebbles Program is the sine qua non of a defense against strategic, or even tactical, ballistic missiles. One almost gets the impression that some SDI advocates would oppose deployment of a strategic defense system if it did not include Brilliant Pebbles.

Mr. President, I think the path this debate has taken clearly distorts the choices we face. While the question of Brilliant Pebbles is not unimportant, it has assumed an inappropriate centrality. Moreover, it has created a fissure between Members of Congress who otherwise might find that they are in essential agreement on the real question of whether or not we should proceed with a limited defensive system to protect against threats we are likely to face early in the next decade.

In the wake of the gulf war, support in Congress has grown for proceeding with both theater missiles defenses and defenses against accidental or unauthorized Soviet attacks and limited attacks from other countries that might acquire long-range missiles. Indeed, it appears that a consensus could be found for developing and deploying such defensive systems.

But there is no consenus for abandoning the ABM Treaty, which would not only undermine prospects for a START Treaty but create pressures to maintain, if not increase, levels of strategic offensive arms. The irony is that precisely at the point when it might be possible to solidify support for deploying limited strategic defenses and more effective tactical missile defenses, the divisive debate over Brilliant Pebbles is undermining the creation of this consensus.

A recent editorial Aviation Week & Space Technology hit the nail on the head:

> Even the biggest fans of strategic defense are beginning to see that SDI's pursuit of a system that is politically, if not technically, infeasible hurts the cause. The Pentagon should do itself a favor and try to restore some credibility to anti-ballistic missile defense research. Quit pushing for near-term deployment of Brilliant Pebbles. Take an evolutionary approach to advancing ballistic missile defenses. Build on Patriot, from the ground up.

What would such an evolutionary approach look like, if it were to win sustainable support from a majority of Members of Congress?

First, it would certainly include vigorous efforts to develop and deploy theater missile defenses, more capable than Patriot, to defend our forward deployed forces and our allies. The current development programs—including Patriot upgrades, ERINT, Arrow, and THAAD—will provide a range of deployment options to meet our theater missile defense needs.

As we increase the capabilities of such antitactical ballistic missiles [ATBM's], we will need to address questions related to the ABM Treaty. Treaty compliance questions arise when ATBM's begin to have the capability to counter SLBM's, particularly shorter range SLBM's, which are the easiest to counter. As a practical matter, the likely Soviet decision to phase out its shorter range SLBM's—the SS-N-6 and SS-N-17—should provide us with needed flexibility in developing more capable successors to the Patriot.

Second, we should vigorously pursue ground-based interceptor programs to provide a two-layered defense of the continental United States. The ABM Treaty originally allowed two ABM sites, each with 100 fixed, land-based interceptors; the 1974 protocol reduced this to one site with 100 interceptors. While a very limited system could be deployed within the bounds of the ABM Treaty as amended in 1974, the capability of a limited protection system could be significantly enhanced if multiple sites and more than 100 interceptors were permitted. Congress has recognized this and last year directed SDIO to examine limited protection systems incorporating modest changes to the numerical limitations in the ABM Treaty.

Such a multiple-site limited protection system could preserve the stabilizing benefits of the ABM Treaty while permitting the United States to protect itself against accidental or unauthorized Soviet launches and against limited attacks from nations now seeking to acquire long-range ballistic missiles.

In addition, we should pursue enhanced space-based sensors to support both theater and strategic missile defense systems. This, too, would require clarification of and quite possibly modest changes to the ABM Treaty. The treaty forbids satellites that could substitute for ABM radars, but applying

this prohibition in the real world presents difficult questions. Moreover, giving space-based sensors some of the battle management characteristics associated with ABM radars may be both desirable and possible without undermining the ABM Treaty.

We should also continue a robust technology development program to ensure that our deployed systems can be upgraded to meet new and responsive threats and to explore advanced concepts and breakthrough technologies. As part of this effort, it should be possible to continue deliberate development of Brilliant Pebbles—with tests conducted in a pop-up mode from fixed, land-based launchers at agreed ABM test ranges—to determine the potential benefits such a system might provide.

Finally, since each of these elements requires some clarification of or modification to the ABM Treaty, we should promptly proceed to engage the Soviet Union in serious discussions about these issues. Our efforts should be directed toward the negotiation of a protocol defining new limits on limited protection and theater defense systems consistent with the above-stated objectives; with the stabilizing benefits of the ABM Treaty's prohibition on comprehensive nationwide defense; and with START's deep cuts in offensive forces.

As with all complex arms control negotiations with the Soviets, it would be unwise to rush to negotiate and sign such an agreement. However, it is reasonable to seek such an agreement within the next few years. This would be consistent with the schedule of ongoing development programs. Moreover, it would be consistent with the desire to pursue a START II Treaty in the latter part of the decade, since further cuts in offensive forces are difficult to imagine in the absence of progress between Washington and Moscow on the issue of strategic defenses.

While some in the administration are reluctant to talk about renegotiating the ABM Treaty to permit multiple sites, this position lacks credibility given that their present policies envision withdrawal from the treaty.

In my view, Mr. President, an approach such as that I have outlined could form the basis for a sustainable, bipartisan consensus to develop and deploy ballistic missile defenses. Senator WARNER has played a leading role in the last few months both to ensure that this issue is fully debated and to craft a compromise, consensus position. I am also pleased to note that Members on the other side of the aisle, have also contributed to this effort at consensus. Indeed, the elements of the approach I have outlined builds on the ideas and proposals offered by a number of Members, which is why I believe it represents a basis for agreement.

In a floor statement last week, Senator WARNER noted that the task before us is to take the steps now that, consistent with technology and arms control, will lead to strategic and tactical missile defenses in the next decade, when proliferation will have reached frightening proportions.

I urge my colleagues on both sides of the aisle to join in the effort to lay this foundation for the future, putting aside the divisive and secondary issue of spaced-based interceptors and focusing instead on the elements on which most of us can agree.

Mr. President, I ask unanimous consent that the paper prepared by Senator WARNER and myself be printed in the RECORD.

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

THE FUTURE OF BALLISTIC MISSILE DEFENSES AND THE ABM TREATY: A BASIS FOR CONSENSUS, MAY 23, 1991

(By Senator John Warner and Senator William S. Cohen)

INTRODUCTION

Operation Desert Storm provided the United States with a number of lessons that have profound implications for military affairs and national security planning for years to come. One of the most important lessons of Operation Desert Storm is that we cannot rely upon the ability to locate and destroy missiles before they are launched and that a threat of retaliation may not deter missile attack. Defenses against such attacks are necessary to save lives as well as to prevent disruption of military operations. Some type of ballistic missile defense is needed now. We, the authors of this paper, believe there is a potential for bipartisan consensus in Congress to forge a program that will provide the United States and its forces overseas, as well as our allies and friends, with a capability to defend against ballistic missile attacks.

This paper presents a comprehensive plan which is the absolute minimum capability acceptable to the authors but a plan which, we believe, can be supported on a bipartisan basis. The plan provides for a two-part strategy: (1) negotiations to achieve a new agreement or amend the Anti-Ballistic Missile (ABM) Treaty of 1972 to allow for the deployment of defenses capable of protecting the citizens of the United States against limited ballistic missile strikes, and to permit development and testing of ABM technologies, including those covered by the Treaty and those not foreseen or defined at the time of the Treaty, and (2) a programmatic guideline that includes numbers of launchers and deployment sites, and sensors needed to fulfill the minimum requirements for a limited but effective defense system, as well as endorsement of deployment of theater missile defense (TMD) capabilities to protect U.S. forward-deployed forces and allies.

For the purposes of forcing a bipartisan consensus in favor of strategic defenses, a decision on inclusion of space-based interceptors in an initial limited missile defense architecture can be deferred for the time being. For many, deferring the inclusion of space-based interceptors as part of the initial deployment of limited defenses is a difficult decision. Many believe that space-based interceptors provide the highest degree of effectiveness and, in the long run, may represent the most cost-effective means of defending the United States. Others question the feasibility of space-based interceptors. But in the interest of providing the nation as soon as possible with at least some protection against ballistic missiles, and since our proposal would provide for an unfettered testing program for space-based interceptors to determine their effectiveness, we have decided to set aside this issue temporarily. What is achievable now is a limited defense system, a highly effective protection against accidental, unauthorized, or deliberate ballistic missile attacks of limited scope.

BACKGROUND

While the Iraqi use of conventionally armed SCUD missiles against Israel and Saudi Arabia posed no major military threat to coalition forces, or in the case of Israel, to its national survival, the missiles did threaten the lives of our troops and neighboring civilian populations and were enormously significant as a political terrorist weapon. Armed with lethal chemical or nuclear warheads, as may be the case in the future, these missiles could have caused devastating loss of civilian and military life, as well as severely disrupted military operations. There is little doubt, however, that the Patriot TMD system provided a degree of defense sufficient to permit Israel to forgo retaliation against Iraq, which in turn contributed to sustaining the solidarity of the multinational coalition of forces in the Persian Gulf conflict.

In the future, ballistic missiles from a variety of sources, combined with weapons of mass destruction, will pose an increasing threat to U.S. and allied forces overseas, and to the United States itself. These systems will have not only substantial political impact, but, most assuredly, military significance as well. The Director of Central Intelligence estimates that, by the end of the century, between fifteen and twenty developing countries will possess ballistic missile capabilities; at least six developing countries probably will have ballistic missiles with ranges up to 1,800 miles; and at least three of these countries may develop missiles with ranges up to 3,300 miles that could directly threaten the United States. Many of these countries are currently developing, or will soon have the ability to develop, nuclear, chemical, or biological weapons for possible delivery on ballistic missiles.

At the same time, we must not ignore the fact that the Soviet Union has presented, and, in its present unstable condition, will continue to present, the greatest ballistic missile threat to the United States. As the Chairman of the Joint Chiefs of Staff, General Colin Powell, stated in recent testimony before Congress: ". . . the Soviet Union remains the one country in the world with the means to destroy the United States in a single devastating attack." The Soviet ballistic missile threat to our land-based and in-port deterrent forces is more formidable today than in the mid-1980s, and the U.S. has not completed efforts which were started during the 1980s to reduce the vulnerability of these forces. In this regard, we should consider how a limited defense deployment would also complement a START agreement, by hedging or safeguarding against both technological surprise and unexpected changes in the threat to which a reduced force would be more vulnerable than a larger one. Defense of our deterrent forces against attack is an option that should be rapidly developed.

Given the combination of emerging Third World ballistic missile threats and the continuing challenge of the fully modernized

and highly lethal Soviet strategic nuclear force (the danger of which might even be heightened by internal Soviet instability and unrest), we believe the question for the United States is not whether we should deploy effective theater and strategic missile defenses, but rather, how many, of what type, and how soon? The safety and security of the American people, as well as the effectiveness of our deterrent, demand correct answers.

PHASE I TO GPALS

In 1983, President Reagan announced the Strategic Defense Initiative (SDI). SDI was structured as a comprehensive research effort to determine if ABM technology could be developed to protect the United States from a deliberate Soviet ballistic missile attack. A Phase I architecture was first outlined in 1987, consisting of ground- and space-based interceptors to defend both populations and deterrent forces against a large-scale Soviet ballistic missile attack.

When President Bush assumed office in 1989, he initiated a national security strategy review of ABM technologies and deployment options. In his State of the Union address of January 29, 1991, the President directed that "the SDI program be refocused on providing protection from limited ballistic missile strikes, whatever their source." The President shifted the near-term priority for the SDI program away from a strategic deterrence and defense approach to the more modest objective of protection against limited strikes. The restructured program, called Global Protection Against Limited Strikes (GPALS), is essentially the same set of systems and architecture as Phase I, except the number of ground-based interceptors is reduced by 50 percent and the number of space-based interceptors (Brilliant Pebbles) is reduced by 75 percent.

In recent testimony before Congress, General Colin Powell reiterated, however, that given the robust and fully modernized Soviet strategic nuclear threat, the original Phase I mission requirement remains valid. He indicated his support for the GPALS program and characterized it as an important and discrete step toward fulfilling the greater Phase I requirement.

The scaled-down GPALS program has shifted the terms of the SDI debate from deterrence and defense to a question of what type of defenses are necessary to provide protection against limited ballistic missile attack. This has, in turn, brought to the fore the issue of space-based interceptors.

Under the threat scenario against which Phase I was designed, there is no question that space-based interceptors are necessary to counter a massive missile attack. It is widely acknowledged that space-based defensive systems offer the best prospects of a high rate of ballistic missile intercepts over the aggressor's territory rather than the defender's, as well as significantly lower operations and support cost than ground-based systems. In addition, for purposes of providing an assured and effective global defensive capability, space-based interceptors are potentially the most capable component of such a defense. All of these factors hold true even for the GPALS architecture. In short, while we may decide to forego the deployment of space-based interceptors for political reasons, opponents of space-based interceptors must acknowledge their significant contribution to meeting the challenge of effectively countering ballistic missiles.

Skeptics of space-based interceptors, such as Brilliant Pebbles, argue that the technical data are not sufficient to know whether such a system is feasible or could be countered by the Soviets. The SDI program has made substantial progress in proving the technical feasibility of ballistic missile defenses and in assessing cost-effective and realistic countermeasures. We would note that, while testing data are currently limited on space-based interceptor technologies, review of the Brilliant Pebbles program by the defense Science Board and JASONs identified a couple technical challenges but no technical show-stoppers. Moreover, in large part, the development, testing, and demonstration of such high-leverage, space-based technology are restricted by Congressionally mandated limitations, and possibly restricted by the ABM Treaty.

Until both Congressional and possible Treaty restrictions on developing and testing ABM technologies are removed, it will be more difficult, costly, and time-consuming to prove fully the effectiveness of Brilliant Pebbles or other space-based interceptor technology in defending against missile attacks. Because of these restrictions, testing of Brilliant Pebbles technology is often designed around legal interpretation rather than engineering principles. In some cases, two or three tests may be required to carry out experiments when one test could accomplish the same objective more effectively. More importantly, we would be forced to make decisions to build a certain system on analysis of the test data, not on end-to-end testing as we do with normal military programs, again, because of Congressional and possible Treaty restrictions.

While opponents often raise questions about the technical feasibility of a certain missile defense component, in the end the central issue is a political one, having to do with our relations with the Soviet Union, questions of deterrence and the role of military systems in space, and the prospects for arms control. This debate, however, informed, seems to us to skirt the real issue: should we provide our citizens and our forces overseas with some defense against ballistic missile attacks? We believe the answer to this question is clearly in the affirmative. For this reason, we have outlined below a program that, we believe, forms the basis for a consensus on ballistic missile defenses.

A BASIS FOR CONSENSUS

In light of all of the above considerations, we believe that our obligations under the ABM Treaty, as interpreted by Congress, should be modified. We believe the initial objectives set forth herein are reasonable and, given recent statements by certain Soviet officials, could form the basis for successful negotiations.

These negotiations must be aggressive and time-limited. Otherwise, missile defense research cannot be pursued with fiscal efficiency or in a manner that will provide the nation with a timely defense capability against limited strikes. For this reason, a period of not more than two years should be established to negotiate satisfactory changes to the Treaty. If we do not achieve these negotiating objectives within that period, then we feel the Administration, in consultation with the Senate, must consider the options available to the country, including possible withdrawal from the ABM Treaty.

A key aspect of our suggested negotiating objectives is the right to increase the number of deployment sites and interceptors currently allowed under the ABM Treaty. Some proponents of limited defense systems suggest that we should limit deployment to 100 interceptors at one site (currently declared by the United States to be Grand Forks, North Dakota). Technical data and physics strongly indicate that such a Treaty-compliant deployment would not provide an effective capability to defend our citizens against the majority of limited strike scenarios. Such a system would only protect a small sector of the United States, leaving Americans on our coastlines and in Alaska and Hawaii totally vulnerable. Therefore, we believe it is critical that any negotiations result in higher ceilings for interceptors and multiple-site deployments.

While some elements of our overall proposal have been mentioned in a general way by others, what we have sought to do is to describe as specifically as possible a program that contains the minimum essential elements that we believe are required to provide an effective, limited defense system. But what we propose is only feasible if the two interrelated components—arms control objectives and programmatic content—are pursued in tandem. Pursued together, we believe they provide the basis upon which a bipartisan consensus and successful negotiations with the Soviets are possible. The details of the two components of the plan are outlined below:

Arms control component

Negotiate a new agreement or amend the ABM Treaty within two years or less to allow for:

Increased number of interceptor launchers and deployment sites,

Development and testing of all ABM technology,

Deployment of space-based sensors for direct battle management, and

Relaxation of restrictions on exporting ABM technology to our allies and friends to counter advanced, long-range ballistic missiles currently under development by third countries.

Clarify and further define U.S. rights for:

Space-based weapons, and

Development and deployment of TMD systems.

Programmatic component

Accelerated TMD program for our forward-deployed forces, as well as for our friends and allies, such as Israel.

Limited defense system consisting of:

5–7 deployment sites to protect the United States, including Alaska and Hawaii,

700–1200 fixed ground-based launchers, and

Space-based sensors for TMD and ABM battle management.

Development and testing of ABM technology to demonstrate space-based interceptor and other technologies for future deployment.

Defer debate for now over deployment of space-based interceptors.

CONCLUSION

Finally, if a consensus can be achieved, we also believe it is imperative that Congress fully fund the SDI program and rebuff attempts to restructure the program in ways that would deny the Administration the appropriate flexibility necessary to achieve the programmatic objectives outlined above. In this regard, it is important to ensure that follow-on technology efforts (including the development of Brilliant Pebbles technology) not be underfunded or eliminated. While we are willing to forego at this time the issue of space-based interceptor deployment as part of an initial limited defense architecture, we do not believe that it is in the national interest to preclude this technology option for the future. Again, we believe space-based systems provide the best hope for an effective means of countering ballistic missiles

for the future. Our nation must not be denied the right to determine if this is true.

We support, therefore, the requirement set forth and restated recently by the Chairman of the JCS, General Colin Powell, for a Phase I-like defense as a long-term goal, adapted or restructured to fit future geopolitical conditions. Until then, we believe we have identified a basis for a consensus which, if pursued aggressively, will culminate in a system that provides a minimum capability to defend against limited ballistic missile strikes.

PROGRAMMATIC COMPARISON

Programs	GPALS	Consensus program
Theater Missile Defense	Yes	Yes.
Ground-based interceptors (multiple sites).	Yes	Yes.
Space-based sensors	Yes	Yes.
Brilliant pebbles: space-based interceptors (development and testing).	Yes	Yes.
Brilliant pebbles: space-based interceptors (deployment).	Yes	Defer decision.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Minnesota.

EXTENSION OF MORNING BUSINESS

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the period for morning business be extended for 7 additional minutes.

Mr. REID. Mr. President, I am sorry. I could not hear the request.

Mr. DURENBERGER. The period for morning business be extended for an additional 7 minutes.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada reserves the right to object.

Mr. REID. Mr. President, under the unanimous-consent order I was to talk at 10. I am most happy to see a number of people around the Chamber who wish to speak as if in morning business. Can we find out who wants to talk and how long so we at least have some order here because there are a number of people want to speak for my motion to strike and against it? I think we need to do that and have a little bit of order here.

Mr. DURENBERGER. Mr. President, I am aware of only two, the Senator from Nebraska and me, who would each like to speak for 3 minutes. I see the Senator from Pennsylvania also indicates an interest to speak for 3 minutes. So I will revise my request and ask unanimous consent that the period for morning business be extended for an additional 9 minutes.

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

The Senator from Minnesota is recognized.

TRIBUTE TO VINCENT GENTILINI

Mr. DURENBERGER. Mr. President, I rise today to salute an old friend of mine, and a great friend of the people of the seven-county Arrowhead region of northeastern Minnesota. For 26 years, Vincent Gentilini has guided the Arrowhead Economic Opportunity Agency as it became one of the largest and most respected community action organizations in the Nation. On June 19, Vince will retire as executive director.

Vince Gentilini was born in Vol de Sole, Tyrol Province, Italy, 70 years ago. He emigrated to Chisholm, MN, with his family when he was 8 years old. Vince served in the United States Armed Forces during World War II in New Guinea, the Philippines, Australia, and Japan. When he came home, he married Lillian and, together, they began their family which now includes four children and three grandchildren.

In 1965, following the passage of the Economic Opportunity Act, Vince was named to head the newly incorporated Arrowhead Economic Opportunity Agency. This private, nonprofit organization started with a $35,000 Community Service Administration grant. Today, the agency supports a diverse group of programs such as Employment and Training Services, Emergency Services, Minnesota Momentum for Women and Head Start, with a multimillion-dollar budget. Then and now it serves the people of Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and most of St. Louis Counties.

Arrowhead Transit, the agency's transit program was started in 1974. Under the guidance of Vince Gentilini, it is now the largest rural public transportation system in the Nation. A new transit facility housing 30 buses, a repair shop, a wash bay and administrative offices was completed in Gilbert, MN, and named for Vince in appreciation for his leadership and commitment to rural transportation issues.

My friend, Vince Gentilini, is called compassionate, generous, quick to recognize what the heart of the community needs. His friends say he has, throughout his 26 years as director of the Arrowhead Economic Opportunity Agency, exhibited the foresight, initiative, leadership and tenacity to develop one of the most respected community action agencies in the Nation. Through it all, Vince has remained true to the mission of the agency, "people helping people."

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY].

THE GAO'S ASSESSMENT OF THE RESOLUTION TRUST CORPORATION'S PERFORMANCE

Mr. KERREY. Mr. President, yesterday in testimony before the Senate Banking Committee, Charles Bowsher, Comptroller General of the United States, provided a disturbing assessment of the performance of the Resolution Trust Corporation [RTC]. Mr. Bowsher's testimony points out numerous problems within the RTC from poor accounting procedures that make it difficult for the agency to balance its books to its inability to develop sound information management systems.

Although these matters are of great concern and I compliment the GAO for working with the RTC to address them, we run the risk of ignoring the underlying problem: the failure of the members of the RTC's Oversight Board to get the job done.

Consider the GAO's concerns about the RTC's operations:

Instances where offices have no system to prevent duplicate payments to contractors and have poor controls over incoming cash;

Instances where some offices simply receive rent and mortgage payments sent in by contractors without determining whether the RTC has received the proper amount;

Poor contract oversight allowed one contractor to bill the agency for $120,000 a month in operating costs without being questioned by RTC oversight personnel;

A poor information management system allowed the agency to sell the same piece of real estate worth $7.4 million to two different individuals;

Lack of provisions in place to penalize contractors who do not perform agreed-upon work, except cancellation of the contract, and some RTC field offices pay contractors without examining their work.

Instances where contracts have been awarded without evidence of competition or to firms that were not even registered to do business with the RTC.

Mr. President, in addition, in 1990 the RTC paid out over $600 million for legal fees outside the RTC office. In any other case where a board charged with oversight, whether it be a school board, a bank board, a county board, any other board of directors that performed in this fashion, we would hold that board accountable for their performance.

Before any consideration is given to changing the structure, which I believe must be done, attention must be given to the personal responsibility of this five person board to exercise oversight. I acknowledge the difficulty that their job entails. Acknowledging the difficulty of their job does not excuse their failure thus far to get their job done. Recognizing the uniqueness of their task does not excuse the poor performance of this board.

I am willing to allow that the other responsibilities of Treasury Secretary Brady, Federal Reserve Board Chairman Greenspan and Housing Secretary Kemp are such that they cannot give as much time to the oversight of the RTC. However, this is an observation each should have made 2 years ago. Further, it is an observation which should have caused them to say no to the added responsibility.

Mr. President, the GAO report also increases the urgency to change the structure of RTC oversight. Absent a charge in the agency dual board structure and the consolidation of authority in the hands of a single board under the leadership of a strong chair, the Congress will simply continue to be faced with report after report indicating that the RTC is plagued by contracting problems or spent more than an half a billion dollars in 1990 on legal fees or is unable to move its huge inventory of real estate.

It is a mistake for Congress just to react every time we hear horror stories about the RTC's operation. Without ridding ourselves of responsibility for our oversight role, we need to recognize the RTC's Oversight Board simply failed in its task. We no longer can afford to have an oversight board run by three individuals whose tremendous responsibilities in other areas prevent them from providing full-time guidance to the RTC. We no longer can afford to have a board of directors that simultaneously has its hands full addressing the problems in our country's banking industry. We need a full-time, hands-ons board.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

WALTER W. GIESEY

Mr. WOFFORD. Mr. President, I rise today to pay tribute to one of Pennsylvania's and, indeed, this Nation's great public servants, Walter Giesey. His career of more than 40 years in local, State, and Federal Government affairs embodies the best American tradition of citizen service.

As an adviser to Pittsburgh Mayor and Pennsylvania Gov. David Lawrence, to Presidents Kennedy and Johnson, to the Allegheny County Commissioner Tom Foerster, to the president of the University of Pittsburgh, and most recently to Gov. Robert P. Casey, Walter Giesey has helped shape and implement programs that have changed the face of Pennsylvania and America.

In the fifties and sixties he fought to turn a soot-stained Pittsburgh into one of America's most beautiful cities. In the sixties he helped lead the fight for fair housing.

In the seventies he fought to expand support for higher education. And, in the eighties, he fought to make State government work for Pennsylvania's working families.

I would like to put in the RECORD an editorial from the Pittsburgh Post Gazette, dated 1943, which captures his love for Pennsylvania and his lifelong commitment to making America a land of real hope and opportunity and happiness for all of our people.

The editorial quotes a letter Walter wrote as an Army Air Corps pilot in World War II, a letter of reflections on why he was fighting.

I am fighting for Paul and Peter and Hans and Wong and Jose—all the people all over the world. I'd like to see them have the things I've had—my freedoms, my fun, my comforts. I don't want them to be subservient to me; I want them to be equal to me.

There are other things, none of which can be brought about by just me. But there are millions of men like me in uniform in addition to all of you back home who can bring it about.

* * * * *

While flying yesterday, I looked down at the countryside. I saw the fields being plowed, forests, streams, railroads, homes and roads. It was peaceful and calm from up there. I'd like to see it that way down on the ground

I've left many things out and perhaps I have failed to show you exactly what I have meant to say.

You need only read between the lines and you'll find all the countless little things which put together, make me feel proud and strong and resolved to fight hard until I can go home to the things I knew.

That moving message of 1943 is as true today as it was then. Just as Walter Giesey and his belief in the common good is as true and as necessary today as then, and even more so.

Mr. President, the city of Pittsburgh, the Commonwealth of Pennsylvania, and the United States of America owe a debt of gratitude to our great citizens like Walter Giesey. I am proud to call him my friend and my colleague.

And I hope his example will help us all feel proud and strong and resolved to continue his fight for the country and the Commonwealth he has known and loved so much.

IT'S TIME TO STOP SHORTCHANGING NORTH CAROLINA

Mr. HELMS. Mr. President, each time Congress reauthorizes the Federal Highway Program, it is an important and often contentious matter. This year's reauthorization is the most important reauthorization in 35 years. Over the last several days it has become more and more apparent that it will also be the most contentious.

Mr. President, the Interstate Highway Program—first funded in 1957—is on the verge of being completely finished. Therefore, the priorities Congress sets for our Nation's various transportation needs now will be the Nation's transportation priorities for the next decade or two, not just the next 5 years.

In other words, the most important part of this debate, Mr. President, will be how the $92 billion in Federal highway funding will be distributed among the States, not just for next 5 years, but for the next decade and beyond. For 35 years, as a result of the 1957 legislation that created the Interstate Highway System, North Carolina and many other States have consistently—year after year—sent more money to Washington in transportation fees and taxes than they have received in return.

In fact, North Carolina has sent $1.7 billion more transportation dollars to Washington since 1957 than it has received in return. In just the last decade, the citizens of North Carolina sent $500 million more to Washington than they received. Last year, North Carolina got a pitiful 54 cents back for every dollar we sent to Washington.

Mr. President, North Carolina needed those funds, but like other States that have been shortchanged, we "donated" this money to assist less populated States in building their portions of the National Interstate Highway network because those States could not have built those roads without help.

At the same time, North Carolina and the other donor States—primarily in the South and the Midwest—have also been compelled to donate highway and mass transit money to more populous and relatively wealthier States in the Northeast.

The Federal Government was acting like Robin Hood in reverse, Mr. President: Taking from the poor States to give to the rich ones. It should be obvious that forcing States like Alabama and Mississippi to pay for highways and subways in New York is patently unfair.

It is sad to say that even though the Interstate System is almost complete and thus the need for some States to donate to other States is no longer as necessary, the pending bill will continue to take money from so-called donor States as if the Interstate System were still being built. The pending bill continues to use the same inequitable funding allocation formulas as under current law—funding formulas that in some instances continue to use assumptions from as long ago as 1916.

The pending bill thus fails to mitigate in any way the amount of money that donor States like North Carolina will be required to contribute to other States.

Under the pending legislation, North Carolina will continue to receive less than 84 cents for each transportation dollar that the citizens of North Carolina send to Washington. On the other hand, New York will receive a whopping $1.27 for each transportation dollar the citizens of New York send to Washington. In fact, almost every State in the Northeast—States with large populations that ought to be able to pull their own weight—gets more money back than it puts into the Federal Highway Program.

Let's look at how a few of the other Northeast States fare under the pending bill: For the 5-year period beginning in 1992, Rhode Island would get $1.66 for every dollar paid into the highway fund; Vermont would get $2.10;

Connecticut would get $1.46; Massachusetts would get $1.05; Delaware would get $1.62, and so on.

Mr. President, I should also emphasize that these figures do not even include the large amounts that are transferred under the Mass Transit Program. Of course, some of the States I've just listed will receive the lion's share of the Federal Mass Transit Program funds as well. I note that in the Federal Mass Transit Program last year, North Carolina got back a mere 5 percent of the $45 million we sent to Washington for that program.

Mr. President, let's also look at some of the many—too many—other ways this bill is designed to help the Northeast at the expense of the rest of the country.

The bill takes $750 million in highway funds and devotes it to a magnetic levitation rail demonstration project. It is widely understood that this rail line will be built in New York City.

Another $2.55 billion is earmarked for a harbor-tunnel and central urban artery highway project in Boston. The Boston project is of purely local interest. Yet the Federal Government is going to take money from North Carolina and other donor States to pay for this local highway project in Massachusetts.

Since this project entails building a tunnel under the Boston Harbor, I find it quite strange that we have heard so little from the radical wetlands environmentalists that have plagued transportation projects in the rest of the country. Perhaps it is because many of these self-proclaimed defenders of the environment congregate in Boston and value the convenience of the tunnel over any possible environmental impact.

Mr. President, the pending bill also moves $13.3 billion out of the highway account and into a bridge account. It so happens that this transfer is of enormous benefit to New York. New York has severe problems with its bridges because it has failed to maintain its bridges through painting and other basic maintenance. Last year, in fact, New York City had to close the Williamsburg Bridge due to deterioration caused by rust, which was caused by the city's failure to paint the bridge.

Some New York officials blame this situation on the fact that the Federal Government pays States more to build rather than to maintain bridges. However, the Federal Government's program was always targeted to help States with the high cost of building bridges. After construction, the States were supposed to pay the lower costs of maintenance themselves.

North Carolina has problem bridges, too, but those problems are due to age, not a lack of maintenance. That's because North Carolina imposes a high 2.5-cent gas tax to pay for such maintenance. New York, on the other hand, has a 7-cent gas tax. But now, after years of neglect, New York wants the rest of the country to help it make repairs that are solely due to its own fiscal mismanagement.

Mr. President, the pending bill will also have the effect of forcing donor States to subsidize the exorbitant union wage scales of New York and the other Northeastern States. For example, in North Carolina it costs $37 per square cost foot to build a bridge and $25 a square foot for repairs. In New York, on the other hand, its construction companies charge an average of $102 a square foot to build a bridge and $69 a square foot for repairs. The pending bill perpetuates the current inequities in the bridge allocation formulas, and once again North Carolina and the other donor States will be at the bottom of the list.

Mr. President, the pending bill also penalizes States with growing populations. It does so by embedding 1980 census numbers in the highway allocation formula and eliminating the Federal Highway Administration's authority to use the 1990 census data when it becomes available. The pending bill ignores for the next 5 years—possibly longer—the huge shifts in population out of the Northeast and into other parts of the country since 1980. Consequently, the Northeast will get more Federal highway dollars than ever while Northeast States are losing seats in Congress.

Furthermore, the pending bill is antigrowth in that it penalizes States for the construction of expansion of highways as opposed to simple maintenance. The Federal/local matching requirement for new construction is 75 to 25 percent; however, the matching requirement for maintenance needs in the no-growth States of the Northeast is 80 to 20 percent. Maintenance gets a significantly higher Federal funding share than does construction, which hurts those States with growing populations.

Mr. President, North Carolina is still trying to make up construction delays caused by inadequate Federal funding in the past. That is why North Carolina embarked on an ambitious 10-year highway building program just last year only to be met this year with the pending bill's proposal to penalize new construction.

Mr. President, I am also disturbed that even though highway users are the people taxes to support the highway trust fund, this bill moves significant amounts of money away from spending on highways and uses it to pay for mass transit instead. Gas taxes already fund a specific mass transit program, and that program—not the highway account—should be used to fund mass transit.

Mr. President, as I and others have pointed out, most of the extra money awarded to the Northeastern States in the past, and under the pending bill, comes from States in the Southeast and the Midwest.

The Senator from Virginia [Mr. WARNER], whose own State suffers under the pending bill, has offered an alternative proposal that recognizes that the interstate highways are almost complete. I am proud to be a cosponsor of that bill.

Our proposal uses a new allocation formula based on current statistics and assumptions and will incorporate the data from the 1990 census as soon as it is available. As a result, Senator WARNER's formula is vastly more equitable to those States that have been forced to pay tribute to the Northeastern States for the past 35 years.

Even under the Warner bill, North Carolina, Virginia, and the other 17 donor States still will not get back 100 cents for every highway dollar they send to Washington, but they do much better than they would under the pending bill.

We realize that the sparsely populated States out west will still need some help maintaining the interstates and other national highways, but we see no reason why our States must be compelled to subsidize large metropolitan States. These States should not receive inordinate subsidies at the expense of North Carolina and other so-called donor States. As I said earlier, the urban States already receive enormous Federal subsidies for their unique transportation needs through the Federal Mass Transit Program.

Fair is fair, Mr. President, and the pending proposal is not fair. The donor States have been patient, they have been generous, but now is the time for Congress and the other States to recognize our contribution.

The donor States are not even asking for a dollar for dollar return on our gas taxes. We are asking only for a formula that brings us closer to parity by using current assumptions about the Nation's demographics and the latest census figures so that highway apportionments are fair and equitable, not arbitrary.

The pending bill will continue to give North Carolina less than 84 cents for every dollar sent to Washington. Our alternative would give North Carolina at least 94 cents back on the dollar.

Mr. President, the pending bill does not promote a new vision for the U.S. transportation system into the 21st century. It promotes a new vision for transportation in the Northeast into the 21st century. Fairness and equity demand that the concerns of the 19 so-called donor States be addressed before a new highway reauthorization bill becomes law this year.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time has expired. Morning business is closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1204, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd amendment No. 296 (to amendment No. 295), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada [Mr. REID] is recognized to offer an amendment.

AMENDMENT NO. 304

(Purpose: To strike section 137, visual pollution control)

Mr. REID. Mr. President, pursuant to that order, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 304.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike section 137 of the bill.

Mr. REID. Mr. President, as I have indicated on this floor as late as yesterday, I think this is a good bill. But there are some problems with it and one problem I hope to correct today.

I stand before you and our colleagues reminded of the saying of the former great New York Yankee, Larry "Yogi" Berra when he said—and of course he was famous for crystallizing the common man's frustration with trivial pursuits and endless debate—he said, "It's deja vu all over again." And as another philosopher, Santayana said, "Those who cannot remember the past are condemned to repeat it."

Mr. President, I remember the past. About 4½ years ago, I sat in these Chambers as a new Senator, witnessing a full-scale debate on the very issues contained in Senator CHAFEE's current proposal to ban outdoor advertising.

At that time, Senator Stafford of Vermont had offered the same proposal. It was rejected then; it should be rejected now as punitive and destructive to the outdoor advertising industry; as paralyzing to small business; and, most importantly, as the introduction of a dangerous virus against private property rights as guaranteed by the Constitution of the United States.

In preparing for today's debate, I reviewed statements found in CONGRESSIONAL RECORDS, but especially for the RECORD of February 3, 1987. At that time, I noted statements in support of Senator Stafford's amendment. I do not think, Mr. President, that you will hear anything new today offered by those who want to, in effect, outlaw outdoor advertising. No new facts, no new astonishing developments, no incontrovertible information to compel this body to reconsider its steadfast desire to continue protecting the mandates of the fifth amendment. The fifth amendment of our Constitution says "nor shall private property be taken for public use without just compensation."

That is a quote directly from the Constitution of the United States. And of course the fifth amendment also talks about due process, as does the 14th amendment. Due process, a concept of the common law. What is it about? Due process is about fairness.

Some will rise today to exclaim the importance of eliminating billboards as an environmental initiative. Mr. President, in one county in Nevada, a newspaper there refers to me at least once a month as "Sierra Harry." My credentials on environmental issues, I would hold up and compare them to anyone in this Chamber.

I am responsible, Mr. President, for creating America's newest addition to our National Park System, the Great Basin National Park, a park that was originally envisioned almost 60 years ago by President Reagan's park director Mr. Mott. This park is beautiful. Mountain peaks of over 12,000 feet. We have a glacier; we have the oldest living things in the world at Bristolcone Park, over 5,000 years old. We have the famous Leeman Caves. It is a great, great facility for all America but especially for Nevada.

Mr. President, I worked for 5 years, 5½ years to be exact, to get the Nevada Forest Service Wilderness; worked long and hard; passed a bill twice in the House. And finally we were able to get a Forest Service wilderness bill almost 30 years after the Forest Service Wilderness Act was passed. And the wilderness created in Nevada, Mr. President, is unbelievable. Areas that have mountain sheep, even mountain goats, elk, antelope, beaver, eagles, towering mountian peaks, great valleys.

We created 11 new wilderness areas in the State of Nevada, places that will be there for all generations of time, for my children and their children's children to visit pristine areas, areas the way they were prior to the white man coming.

I also worked to help create a Red Rock Conservation Area, an area right outside Las Vegas, an area that is geologically important, an area that is archeologically important. We just went a few months ago to dedicate that area, the crown gem of all the Bureau of Land Management's property, the millions and millions of acres they control. This is, as they have indicated, their crown jewel.

Last year, after 4 years of work, the President signed, on November 16, the Pyramid Lake water settlement, which protected two endangered species, resolved problems with two Indian tribes, saved valuable wetlands that had gone from 80,000 acres to about 2,000 very toxic acres of wetlands—wetlands that birds could no longer live in, where fish were dying. This legislation also ended a 100-year water war with the State of California, protected the Pyramid Lake and the Truckee and Carson Rivers.

So, I do not think Senators who support this motion to strike should envision themselves as being antienvironmentalists. This is not, Mr. President, an environmental issue. Toxic dumps, nuclear waste, clean air, soil erosion, issues relating to recycling, traffic congestion, wildlife protection—these are environmental issues. Outdoor advertising is not an environmental issue.

This is, though, Mr. President, a matter of States' rights. Current law allows, and has always allowed, States and cities to restrict or even, if they want to, eliminate billboards. In fact there are four States, Maine, Vermont, Hawaii, and Alaska—they have outlawed billboards. Numerous cities have outlawed billboards. Certain counties have outlawed billboards. They have that right, right now. It is their prerogative under existing law.

I might add, the law is extremely effective. In 1966, the State of Nevada, as an example—it is that this way all over the country but let me give Nevada as an example—reported 2,758 nonconforming and illegal signs. We will hear a lot today about nonconforming. Nonconforming signs are those that are erected legally and later found to be in nonconformance with new zoning laws.

In 1966 the State of Nevada reported 2,758 nonconforming and illegal signs. In 1991, 25 years later—and keep in mind, the State of Nevada has grown tremendously, it is the fastest growing State in the Union—as of June 6, 1991, 25 years later, there were only 6 nonconforming signs compared to almost 2,800. And, though the number varies from day to day, there were no illegal signs. So, Mr. President, the current law works.

Nationwide, the Congressional Research Service reports that the number of billboards has decreased 65 percent, from 1.1 million in 1966 to 390,000 in 1990. How many more statistics do we

want to hear, to prove the current law is working?

What those should acknowledge who will not support my motion to strike is they just do not want billboards, and this is a way to get rid of all of them. Is that what the debate is all about? It is not about the environment. It is not about States rights. Remember, the States already have the prerogative to deal with outdoor advertising. And it is not ineffective current law. This debate is about the very core of constitutional guarantees. It is an issue of private property rights.

What current law will not allow, and what we are debating here today, is the ability of States, counties, and cities to remove billboards without money compensation. Senator CHAFEE's provision in this bill introduces the concept of amortization as satisfactory compensation to billboard owners who lose their property.

Let me explain how amortization works. It is a word we do not hear very often, amortization. What does it mean? It simply means that rather than the State or local government paying money compensation to billboard owners, the owners would be allowed a grace period to have the billboards removed. In other words, a billboard owner would be allowed to keep his sign for a period of 3 to 5 years. And this will be considered full payment; full compensation. At the end of this time, the billboard owner must still remove the sign at his own expense. As we will hear a little bit more later, not only is he forced to remove the sign at his own expense, but he cannot use the materials for another sign anyplace.

As an example, if I purchase a piece of property for the purpose of erecting a sign, payable $500 a month for 10 years, then I lease property to an outdoor advertising company for $500 a month for 15 years, and along comes the Federal Government a couple of years later and they say take the sign down, but we are going to allow you to keep it up for 3 years, maybe 4 years, at the most 5 years. I still have to continue making payments on the piece of property for the next 5 or 10 years, whatever the period is that they will not allow me to rent my property. And with no compensation. This simply is not fair.

George Will, probably the most read syndicated columnist, recently wrote one of his columns about this very subject. In his article he labeled amortization as, "slow motion confiscation."

In looking directly at this George Will column, let me refer to the Senate a couple of other things he said.

> It is disingenuous to dress up the proposed language in Jeffersonian language about "restoring local control." States already have the power to regulate, even ban, billboards with just compensation. The question is, shall constitutional values be disregarded because Americans would prefer not to pay the price—compensation—of an improvement they desire?
>
> In this era of $400 billion deficits, Americans are adept at making others, the voiceless and the voteless generations to come, pay a significant portion of the price of today's choices. Taking the property of billboard owners, and diminishing the value of property of people who rent land for billboards, and doing this without proper compensation, fits today's political morality. Enjoy the benefit, make others pay.

We should all listen closely to what George Will said. We, in effect, are taking people's property without just compensation, in violation not of some ordinance or regulation, but in violation of the U.S. Constitution.

There are other papers that talk about it but let us talk about a small Nevada newspaper which said:

> There are exceptions, of course. For example, when you are driving a carload of unruly kids and can calm them momentarily with the knowledge gleaned from one of those signs that only 20 miles ahead lies a gas station with sodas, candies, and bathrooms.

I have five children and this paragraph from a Nevada newspaper brought back a lot of memories. When we used to travel with the kids there was one billboard that we always used to have a lot of fun with. I think it was a place called Stuckey's. They had them all over the West.

They had them all over the West. As we drove the streets of the West, there would be these signs advertising these luscious things in this—it was a service station really—little place to buy goodies. The goodies were never as good as they appeared on those billboards, but we had a lot of fun. That is the way we could calm our children, waiting until we got to Stuckey's.

So this Nevada newspaper brought back certainly a lot of memories to me and my family. Most of us kids are grown now and not at home, but it was a lot of fun.

The newspaper further goes on to say:

> The problem is a little glitch found in the Bill of Rights, the taking clause of the 5th amendment. That clause stipulates the government cannot take private property, billboards, for example, without just compensation. It is this idea of the Founding Fathers that trips up on the march to a billboardless America. Too bad. If the government wants to deprive billboard owners of their property, it will have to pay. Ignoring the Constitution is surely more costly than the price of all the billboards in America.

When Congress enacted, Mr. President, the Highway Beautification Act of 1965, one of the important issues was whether billboards should be removed by the exercise of the police power or by payment of just compensation. The Congress decided in 1965, almost unanimously, that just compensation should be paid rather than removing signs by police power without payment.

A few years ago, a Colorado court struck down a Denver amortization ordinance which would have allowed the city to confiscate $6 million worth of billboards. In its decision, the court said:

> This court feels that unless municipalities are to be given unbridled latitude to take property, and if the Constitution is to retain any meaning, then strong steps must be taken to advise the government that this kind of attitude and action are unacceptable.

More recently, the Supreme Court of Pennsylvania issued an even stronger indictment on amortization. I again quote:

> It is clear that if we were to permit the amortization of nonconforming uses in this Commonwealth, any use could be amortized out of existence without just compensation. Although such a zoning option seems reasonable when the use involved some activity which may be distasteful to some members of the public, no use would be exempt from the reach of amortization, and any property owner could lose the use of his or her property without compensation. Even a home owner could find one day that his or her castle had become a nonconforming use and would be required to vacate the premises within some arbitrary period of time without compensation. Such a result is repugnant to a basic protection accorded in this Commonwealth to vested property interest.

What is involved then is the right of a legitimate industry to do business. Just as important as the right to do business is the right to possess private property without fear that the State will confiscate it without fair compensation, again, taking the exact verbiage, the exact language from the Constitution of the United States.

The provision that is sought to be deleted from this worthwhile piece of legislation is a serious threat to these fundamental rights. This bill threatens to put out of business a legitimate industry.

In Nevada, for example—and Nevada is a very small State—the 1989 payroll figures for the industry total almost $5 million with 160-odd employees. The industry paid taxes, made purchases from suppliers in the sum of almost one-half million dollars, property leases totaled $4.7 million, payment to utilities were almost one-half million dollars, and the industry donated over $1 million in public service advertising.

Half the billboard clients in Nevada are tourist-related clients who employ, Mr. President, almost 400,000 people in the State of Nevada. Who is going to compensate them when we take down their signs and they lose their jobs?

There is a man in Nevada by the name of Ron Rieger who owns a family operated billboard company. He started out in the business in 1955 as a kid and started his own operation in 1966 with an investment of about $15,000. He did it all himself.

In the beginning, he was the painter, the carpenter, the salesman, even the brush washer. Today, this family business has grown a lot. It is not a big business but it has grown from the time when Ron Rieger did everything himself. But this bill threatens the

very existence of Ron Rieger's company. It threatens over 35 years of work of Ron Rieger and his family. A life's work. What is going to happen to this family when we tell them that you cannot sell billboards anymore, and by the way, we are not going to pay you to take down the ones you own?

Another man I spoke with told me in 1974 he worked for the State government. He was an aide to the Governor of the State of Nevada at the time, former Governor of the State of Nevada.

He at that time got an idea that if he bought a piece of land, he could rent that piece of land to a business that was along one of the highways in Nevada. He bought that piece of land for $36,000 on time, made payments to buy a piece of property and to put up one billboard. He bought the piece of property, put up the one billboard, and over a period of years leased that billboard. As a result of that, he was able to put one of his kids through school. He does not have the billboard anymore, but it served a purpose.

This legislation, this deletion, this motion to strike, this amendment to strike this language from this legislation is supported by a wide range of people. How often do you find the Wall Street Journal joining with AFL-CIO? Not often. But we have an instance with this legislation where, in fact, they do agree.

I received today a letter from the Department of Legislation of the American Federation of Labor-Congress Industrial Organization, AFL-CIO. This letter was written to all Senators, I assume:

The first amendment will be offered by Senator Harry Reid. The purpose of the Reid amendment will be to strike from S. 1204 language added in committee by Senator Chafee that would ban the construction of new billboards on the Federal interstate and primary highway system.

Since 1963, the AFL-CIO has had convention policy opposing the type of ban contained in the Chafee language. A ban on the construction of billboards would cost tens of thousands of jobs among painters, carpenters, sheet metal workers, teamsters, electrical workers, operating engineers and other workers in the outdoor advertising industry. The AFL-CIO supports the Reid motion to strike, and we urge you to vote in favor of the Reid amendment.

As I said, how often do we get the AFL-CIO to agree with the Wall Street Journal? Today's Wall Street Journal is in favor of my motion to strike. Among other things, this Wall Street Journal article states:

The bill would let local governments—

Listen to this word—

expropriate billboards, then "pay" compensation to the owners simply by giving them a few years before the signs must come down. In other words, for the privilege of getting to use their property for a few more years, owners would then simply hand over the property to the government without getting a dime in actual compensation.

The argument—

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. REID—

"The argument that the permission to operate one's property is a benefit," Theodore Olson, a lawyer for billboard companies, says, "is no different than the argument that the thief's demand 'your money or your life' benefits the victim by granting him his life."

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. REID. Not right now. Let me repeat that:

"The argument that the permission to operate one's property is a benefit," Theodore Olson, a lawyer for billboard companies, "is no different than the argument that the thief's demand 'your money or your life' benefits the victim by granting him his life."

As an economic matter, the amortization theory is far from full compensation. How can an owner be compensated simply by getting a few years' notice that he is going to lose all the value in his property? Under this reasoning, a city could announce that there can be no buildings taller than 10 stories, then announce owners will be compensated by allowing them to occupy the buildings for 5 years before leveling them; or a local government could claim eminent domain over your house to build a highway, then claim the compensation is a delay in the highway construction for a few years.

The constitutional requirement that the government must fully compensate citizens for any seized property is perhaps the most important limit on the size of government. East Europeans who look forward to a capitalism vibrant enough to support billboards learned this lesson so well that they are writing similar protections into their new constitutions; a similar protection, something similar to the fifth amendment.

I would be happy to yield to my friend from Rhode Island for a question.

Mr. CHAFEE. I ask the distinguished Senator from Nevada if I am correct in saying this is not a Wall Street Journal article. This is an op-ed piece written by a non-Wall Street Journal individual who submitted it and it was accepted by the newspaper. In other words, it is an op-ed piece rather than an article or an editorial. Am I correct in that?

Mr. REID. I am certain that is the case. I see it is the case. However, I would almost bet the Wall Street Journal allowed this article to be printed or it would not be there. So it is in the Wall Street Journal. It appears to be something the Wall Street Journal allowed in their newspaper.

Mr. CHAFEE. I am not going to doubt for any reason the Senator from Nevada. But I just wanted, off the record, to be clear this article was not an editorial nor an article from the Wall Street Journal, but instead was an op-ed piece.

I thank the Senator.

Mr. REID. I did not refer to it as an editorial. I do not think I did. But, if I did, I certainly was mistaken. It is not an editorial. I do not believe I said it was.

Mr. President, I own some property in Nevada. It is in rural Nevada, along a road built mostly with Federal moneys. I have had people write to me over the years saying, "Can we put a billboard up on your land?" Sometimes they have even sent contracts. Well, I do not want billboards on my land. I did not want them, do not want them, and do not intend to put them on my land. But the point of the matter is why should the Federal Government step in and tell me I cannot put them up on land out in the State of Nevada, land that has been in the family one way or the other for a long time.

I just think it is absolutely wrong for anyone to consider that I should not be allowed to do what I want on property I own. What right does the Government have to tell me what I can do with my private property? What if I wanted to build an ugly house along the interstate; or let us assume a nice looking, beautiful home, in my mind? Who is to decide whether this home on my property is beautiful or ugly? If it is deemed ugly, will the beautification committee allow me to live on it for 3 years as compensation, then make me take it down at my own expense, and not allow me to use any of the building materials out of that home for another home?

What will the next step be; removing ads from magazines, newspapers, and television because they offend us, whoever "us" is?

How do you censor free speech in one instance and protect it in another? You cannot.

Many billboards are not only informative and helpful, but they are entertaining. Many of you remember the Burma Shave billboards. I have here, Mr. President, a book. Burma Shave ads were so good that we have a book on Burma Shave ads. It is a book full from one end to the other of Burma Shave billboard advertising.

As I said, I am sure the Presiding Officer remembers Burma Shave ads. They are famous. Beginning in the Depression, and for many decades thereafter, an unusual national billboard campaign was born outside of Minneapolis, MN. First it started out with tiny wooden signs measuring 1 by 3 feet. They were placed at 100-foot intervals in sets of six, expounding the wonders of a brushless shaving cream called Burma Shave.

These signs were written in verse, with each sign displaying one line of the poem. Who could remain uninterested or unamused for long when greeted on the road by copy lines like this:

The Bearded Lady
Tried a Jar
She's Now
A Famous
Movie Star
Burma Shave.

Or public service ads like this:

It's Best for
One Who Hits
The Bottle
To Let Another
Use the Throttle
Burma Shave.

The Burma Shave signs became such a national institution, Mr. President, that the U.S. Navy once asked if they might put up three sets of signs in the Antarctic. It seems there was a particularly long stretch of submarine duty where the men did not see land for several months, so, at a rather famous crossing through a pass of treacherous ice, there sitting in the snow were the Burma Shave signs reading:

The Whale
Put Jonah
Down the Hatch
But Coughed Him Up
Because He Scratched
Burma Shave.

As I said, Mr. President, there is a book full of these made famous by billboards. These famous signs brought a company from the days of handing out jars on approval to a $3 million, nationwide industry, and in those days that was a big business.

Some of you will also remember the billboards for Harold's Club. Harold's Club was located in Reno, NV, but they had billboards with a wagon train on them all over the world, literally all over the world. The sign said "Harold's Club or bust." And then it would put how far it was to Reno, NV. Signs back here said 3,000 miles; Salt Lake City, 500 miles; and on down, and however far it was.

There are two other parts of this legislation that I am asking to be stricken, which are absolutely unbelievable. The first is that a billboard owner cannot cut vegetation that grows up to block the sign. Of course, it should be illegal to cut down State-owned trees or shrubs. It already is. But if you are going to tell me I cannot cut down a tree on my property, in Searchlight, NV, or wherever it might be, I think you are wrong.

Mr. President, referring to the transcript of this hearing that took place, as I indicated, the last time this matter came up, I think there is something I would like to refer to. This was initially brought up during the debate then initiated by Senator SYMMS of Idaho. He said then—and this applies all over the country today—Idaho has only one documented case of vegetation removal without approval by the State. The law is there now. I mean, this is really a red herring.

The other provision which I think is incredulous is that a billboard company cannot use material from a billboard they have taken down to build another billboard, even a legal billboard. Is this fair? Does this make sense? Of course it does not make sense, and of course it is not fair.

Again, referring to the debate that took place a couple of years ago, Senator HEFLIN, who is formerly a supreme court justice of the State of Alabama, said:

> I would like to point out that the Highway Beautification Act is not an environmental issue, but it is one involving property rights. Clean air and clean water are not involved, nor are our national parks, national forests, or scenic highways. What is involved is the ability of a legitimate industry to do business in commercial and industrial areas where service stations, fast food chains, retail stores, and the like, are allowed to thrive.
>
> Just as important as a right to do business is a right to possess private property, without fear that the State or its subdivisions can confiscate it without payment of cash compensation.

On the same day, the next speaker was the former Secretary of Transportation, now a U.S. Senator, BROCK ADAMS. He said:

> This law mandates a method of compensation which is radically different from the one contained in current law. In the process, the amendment raises an issue which is fundamental to our concept of law, and in my view, violates a central American principle, which I supported when a number of us passed the original Lady Bird Johnson beautification bill, and that is to pay for property rights, not take property under the government's police power, local or otherwise.
>
> No matter what one thinks of billboards, they do involve a significant financial investment.

Nothing in this entire proposal of Senator CHAFEE's is fair. In the past 26 years, amortization language has been offered 14 times in Congress and rejected 14 times. One would think the brilliance of our Constitution and its protections would be enough to deter continuing assaults to one of our most basic and cherished freedoms.

Today, we are considering the 15th such effort. It is deja vu all over again.

Mr. President, I hope we are at the end of this overt attempt to trash the Constitution under the guise of environmentalism. If we are at an end, I am reminded of John Wycliffe's words 600 years ago, when he said:

> I believe that in the end the truth will conquer.

Mr. President, a vote in support of my amendment to strike will allow the truth to conquer.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Reid amendment. Vermont and I have a long history on this particular issue. Vermont has banned billboards on all of its highways, off-premise billboards, for over 20 years.

My father was on the Supreme Court that wrote the decision stating that the State had the right to control highways, and therefore could ban billboards along the highways. I served as cochairman of the Vermont committee which ended up in banning all off-premise billboards in our State. I was attorney general and successfully defended the constitutionality of the amortization methodology utilized by the State of Vermont.

I think it is important to keep clear the issues here. First of all, as I mentioned first, is the right of the State or the Federal Government has the right to ban billboards. That is not the issue here. That is the policy issue.

So I want to make that clear that there is no debate on the issue of the authority of the State or the Federal Government to ban the use of billboards.

The question, however, stated, is as to whether or not the States, local governments, or the Federal Government, have the right to use, as a means of compensation, amortization, if we keep in mind that the value of the sign, obviously, is not the wood, nor the painting, nor the slogans on it; the value of the sign is in the ability to be able to reach the public utilizing the highway.

Thus, any system, practically, that went all the way from saying let us figure out what the value of the boards, and the writing, and whatever else is on the sign is, and to compensate, would probably reach a constitutional mandate.

Yet, the system that has been utilized takes into consideration that there is a value, and although that value can be removed and banned, a more logical and fairer approach would be to say to the sign owner: All right, we are going to ban them. But we will let you use the highways for your purposes of advertising over a reasonable length of time.

I do not think anyone would debate the fact that an owner of that sign receives compensation for the boards, the printing, and the value of the lights, or whatever it is, quickly, in a month or so.

But the reasonableness of the compensation we seek here for allowing the States to utilize the amortization system says: we will let you use the highways for your advertising purposes over a period of time, and get back much more value than the value of the product which we are ordering you to remove.

So I want to make sure that there is an understanding that we are not talking about a house, or something else, of which the value is obviously much greater; we are talking about allowing, for a limited length of time, someone to use the highway for advertising purposes, a privilege which can be banned.

A majority of the cases that have come before the courts have said that

amortization is a just means of compensation. The U.S. Supreme Court has refused to consider the issue, denying petitions of certiorari on numerous occasions.

President Bush, in his surface transportation amendments, proposes to change current law to allow amortization. The general counsel of the Department of Transportation, in a lengthy brief, supported its constitutional validity. The Comptroller General of the United States, in a May 17, 1991, letter to Senator CHAFEE, says that, having reviewed case histories, he concluded that the majority of the cases hold that billboard amortization is not violative of the U.S. Constitution.

The Congressional Research Service, the American Bar Association, and the Southern Environmental Law Association have concurred. On April 9, 1991, a U.S. Federal Appeals Court in Raleigh, NC, ruled in support of amortization.

For those who argue it is unconstitutional, I disagree and say there is no evidence to support that argument. A second provision does prohibit the use of new construction of billboards on the interstate right of way. Some may disagree with this policy, but this is a policy issue. As I pointed out, there is no constitutional issue. This is purely a policy issue.

I point out that in Vermont, having banned all off-premise signs, we find it has enhanced our ability to attract tourists, and it enhances the beauty of our State. We have utilized informational signs, which allow users of our highways to be able to locate and those things they want to see; yet, it does not make them look at things they do not want to see.

We believe that it certainly is a legitimate role in the States. Thus, I urge my colleagues to vote against the Reid amendment.

The provisions of the bill as presently before us are reasonable. They take care of compensation far beyond what is probably required in the Constitution with respect to the amortization provision. It does allow the policies of the States to go forward in a way which is reasonable and less costly than other options.

So I rise in defense of and argue in favor of States' rights here to utilize particularly the amortization methodology for the purposes of just compensation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I thank the distinguished Senator from Vermont very much for his cogent arguments in opposition to the amendment on the floor.

I know the Senator from Missouri has something he would like to proceed with. I yield to him.

The PRESIDING OFFICER. The Senator from Missouri, Mr. DANFORTH.

Mr. DANFORTH. Mr. President, I ask unanimous consent—and this has been cleared on both sides—to lay aside the pending amendment for no more than 10 minutes and that another amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. I wonder if we could do it in somewhat less than 10 minutes.

Mr. DANFORTH. 7 minutes.

Mr. CHAFEE. Do I hear 5?

Mr. DANFORTH. Mr. President, 5 minutes.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada reserves the right to object.

Mr. REID. There is an amendment pending. I do not know anything about the amendment which is going to be offered. Could we go on to something else while on this matter?

Mr. DANFORTH. Mr. President, the amendment that would be offered should unanimous consent be granted—and it would take, let us say, 5 minutes to offer it—would be to incorporate into this bill three bills that have been reported out of the Commerce Committee relating to highway safety. The first has to do with drug and alcohol testing, the second is the National Highway Traffic Safety Administration reauthorization, and the third is the Motor Carrier Safety Assistance Program.

Mr. REID. Is this going to be accepted and not have a vote?

Mr. DANFORTH. I understand it will be accepted, and that is the reason I want to sandwich it in at this point.

The PRESIDING OFFICER. The pending request is by the Senator from Missouri.

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I will not object, I have to say that we have not seen this. We will be happy to see it.

Mr. DANFORTH. That is not my understanding. I will withhold.

Mr. MOYNIHAN. Could we just have a ½-hour? I am very responsive, but I would want to know what it is.

Mr. DANFORTH. Of course.

The PRESIDING OFFICER. The Senator's request is withdrawn.

The Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, section 137 was adopted in the committee by an overwhelming vote of 12 to 4. The committee I am referring to is the Environment and Public Works Committee. Voting for the amendment were Senators MITCHELL, MOYNIHAN, BAUCUS, LAUTENBERG, GRAHAM, LIEBERMAN, METZENBAUM, DURENBERGER, WARNER, JEFFORDS, SMITH, and myself. In addition, when this provision was introduced as a separate bill on March 7, the cosponsors were Senators BENTSEN, AKAKA, COHEN, JEFFORDS, LEAHY, METZENBAUM, PELL, and WIRTH.

Mr. President, the overall bill that this is part of takes major steps—we are talking now of the Surface Transportation Act—in giving States and localities responsibility and authority in a whole number of areas.

For example, we are going to trust the States in designing and building noninterstate highways and spending billions of dollars on those with little or no Federal oversight. But somehow the theory here in the Reid amendment is you cannot trust the States to regulate some nonconforming billboards, that this is a power we do not have to give the States. We are going to trust the States to enforce the speed limit and, indeed, we removed the Federal sanction that says they lose highway money if they do not enforce the speed limit.

We have to trust the States on Federal highways and federally supported highways to protect the lives of our citizens, where more than 45,000 people die every year. We leave that to the States. We do not have the Federal Government involved.

Somehow the theory is we cannot trust the States to regulate billboards. We have to sanction the States mandating that they are going to lose 10 percent of their highway money if they use the process that is known as amortization to remove nonconforming billboards. This is nonsense.

Let us just review the bidding. Up until 1978, States and localities were allowed to remove billboards through amortization, and, indeed, they still have the police power to remove other nonconforming entities. A massage parlor is no longer permitted under the zoning, under the police power; the State or the locality can remove that massage parlor through the use of amortization. The massage parlor is going to cost $10,000 and is making $2,000 a year. At the end of 5 years, under amortization, it is gone. There is no necessity to pay up-front money. You do not have to pay them $10,000.

But the billboard lobby successfully, in 1978, got a very unique provision inserted into the Highway Beautification Act. What did they get? They had a provision put in there that says that you cannot take down a nonconforming—what is nonconforming? It means it does not conform with the zoning laws. A nonconforming billboard cannot be taken down on interstate or primary roads without paying cash up front. Suddenly the States and localities were deprived of the powers they had always had of amortization, which I just described. That was taken from them. I must say, what a coup for the billboard industry. It does not apply to secondary roads, but they had them on primary and interstate highways.

The idea was that you had to give them up-front money. They said, there is a Federal law that the Federal Government will pay 75 percent. But the trouble is there are never any appropriations for the 75 percent. The Senator from Nevada says there are only a few of these nonconforming signs around. The facts are there are 98,350 nonconforming signs in the United States.

The suggestion is, by giving this amortization power which we are giving to the States, if they want to use it, they can use it; if they do not want to use it, they do not have to use it. There is the essence of States rights; we are giving the States the power. If they want to use it, they can use it. We are mandating that they use it. And we are changing that 1978 law that said they did not have this power; it is taken from them, the only instance that we know of where the police power of the States to use amortization was suddenly taken from them, solely for the protection of the billboard industry.

As I say, the States under this legislation, the bill—by the way, this is essentially the same language that is in the administration bill—says the States can use amortization if they want, they can use up-front, straight 100 percent payments if they want; that is their business.

Mr. President, I just want to review a red herring that is constantly drawn across this path, and that is that this is against the Constitution of the United States. The fifth amendment in the Constitution says there can be no taking of private property without just compensation. And the suggestion by the Senator from Nevada and others is that this is violative of the Constitution of the United States because there is not just compensation.

Let us look at that. Frankly, if it is against the Constitution, they do not have anything to worry about because it will not stand up. But the facts of the matter are that this has constantly been tested in State courts and in Federal courts and consistently the answer by the courts is that the amortization is in conformity with article V of the Constitution. In other words, when you use the process of amortization, it is not taking of property without just compensation. Amortization has consistently been found constitutional by the courts, not just for billboards, but for, as I mentioned before, a variety of other businesses. You can pay me now or pay me later. If the nonconforming billboard is worth $10,000, the States can pay them $10,000 now and the billboard comes down immediately and the State owns the billboard. Or the nonconforming billboard can be removed with amortization, which means the billboard stays up, for example, for 5 years during which the owner gets $2,000 a year in revenues and therefore will have the $10,000 payment after the 5-year period. After that time, the billboard has to be removed and the billboard owner gets to keep the billboard, haul it away. By that time all tax benefits have been realized since the IRS allows billboards to be fully depreciated over 5 years.

(Mr. KERREY assumed the chair.)

Mr. CHAFEE. Mr. President, let us review the bidding. What is this business that this is against the Constitution? All right, we have here a letter dated May 21, less than a month ago, of this year from the general counsel of the Department of Transportation. What does she say?

> In sum, this review of recent Federal and State law case law shows that little has changed since our review in 1986. As a matter of Federal law, amortization remains a constitutional way of extinguishing nonconforming land uses, including nonconforming billboards.

In other words, amortization is all right.

The Comptroller General of the United States, in a letter dated May 17 of this year, conducted an extensive analysis of the case law and the constitutionality of the use of amortization in the removal of billboards. This is what he said.

> Our review indicates that a vast majority of cases hold that billboard amortization is a reasonable exercise of the police power of a State and not violative of the Constitution.

In a letter dated May 6 of this year to me, Prof. Edward Ziegler, Jr., professor of law at the University of Denver College of Law and principal author for the revision of the treatise, "Rathkopf's the Law of Zoning and Planning"—he is the premier zoning lawyer in the United States—says the following:

"My opinion, based on decided"—decided meaning cases that have been decided—"decided Federal and State court decisions involving billboards and other types of inverse condemnation taking claims, is that there would seem to be no serious question regarding the 'taking' "—quotes around "taking," referring to the Constitution, the fifth amendment—"regarding the 'taking' constitutionality of billboard amortization programs on their face. Most court opinions on point area State court decisions and these courts overwhelmingly have rejected taking claims challenging the concept of billboard amortization. * * * Moreover, there is nothing in recent Supreme Court 'taking' cases inconsistent with the rulings of court decisions upholding the constitutionality of billboard amortization programs."

It seems to me, Mr. President, that thoroughly dismisses the points that are raised in the article, the op-ed piece in the Wall Street Journal, that the Senator from Nevada previously referred to. And I do not know whether he is going to stack up Mr. George Will as a constitutional expert against these experts that I have cited here.

Mr. President, in a letter dated May 7, 1991, to the chairman of the committee and myself, Mr. David E. Cardwell, chair, Section of Urban, State, and Local Government Law of the American Bar Association—he is not some columnist giving his views on constitutionality. He is from the American Bar Association—this is what he said:

> The position of the section of Urban, State, and Local Government Law is that the Highway Beautification Act of 1965, 23 U.S. Code Annotated, Section 131, should be amended to permit State and local jurisdictions to control billboards for safety and attractive communities by utilizing standard land use control procedures under traditional police powers by eliminating its present requirement that cash pavements be made to billboard operators upon removal of nonconforming signs.

The legislation before us, that is the Surface Transportation Act, puts a moratorium on new billboards on the interstate and primary highways. These roads are about 7 percent of all public roads and clearly those roads with the highest Federal responsibility and the highest Federal investment. Why do we need a moratorium?

New billboards are going up faster than nonconforming ones are being removed. We need time out for the States to determine how many billboards there are. States and localities need time to assess the situation, to catch their breaths, make decisions on the type of regulations they want to consider, and give local officials time to put new regulations in place, if they so desire, without pressure to put up new billboards.

I might say, Mr. President, there is tremendous pressure on local officials to put up new billboards. In our State, we had a large sign which literally grew up over night. When neighbors complained that the sign was in violation of regulations, the sign was ordered removed. Soon after that, a public service ad, which was offered to the city free, appeared on the sign. Now nearly 2 years later the sign is still there entangled in a legal dispute.

The all-American championship for fighting against removal of signs goes to North Dakota to a billboard company and owner out there. A sign owner in North Dakota asked the State to give him permission, interim permits, temporary permits to put up signs even though the State was in the process of passing legislation to comply with the Highway Beautification Act.

The sign owner finally convinced the State to give him these interim permits after agreeing to sign a statement stipulating he would remove the sign without compensation when the State ordered him to do it.

So the State said, "OK, you agreed. No problem. You will take it down, no

compensation. Do this when you are ordered to do it." Yes, he signed.

So in 1972, 19 years ago, the State ordered the signs removed. The owner refused to do so and has been in court ever since. This has gone on for 19 years tying up the State's time and resources in legal battles. The case has twice been to the Supreme Court of the State and once to the Supreme Court of the United States. And the signs are still there.

Now how is that for a championship, drag-your-feet winner?

So that is why we needed the moratorium. Billboards grow up during the night, and once they are there, you can count on protracted legal battles to remove them.

I might say Mr. President, the administration supports our efforts for a moratorium and to provide amortization and to include these bills. Lady Bird Johnson, Mrs. Lyndon Johnson, Laurance Rockefeller, others whose names are synonymous with preservation of the wonderful places in our country, have sent a telegram urging support for these reforms.

The Conference of Mayors and the League of Cities, who represent hundreds of cities around the country, are asking for these reforms so they can regulate billboards in their community in a way that will strengthen their local economy.

Mr. President, there is some suggestion that if you do not have these billboards or there is some control on them—and mind you conforming billboards are still there. This does not end the billboard industry. That is nonsense to suggest that.

There are currently, in the United States, between 400,000 and 500,000 total signs on the interstate and primary highways. Somehow the idea is going out here that we are wreaking havoc with the billboard industry. Why, they are all going to line up for unemployment compensation. They have between 400,000 and a half million signs along the interstate and primary highways, of which about 98,000, less than one-quarter, are nonconforming and could; they will not necessarily be, but they could.

We are giving the States some power. Anybody who belives in States rights ought to be for this bill 100 percent. I must say, I have great difficulty understanding the supporters of the amendment. Here is a power, a power of amortization, which can be used under every exercise of the police power except this nifty little niche that the billboard industry has carved out for themselves. What arrogance that they can say to the cities and towns and States, "No, no, no, you cannot use your formal police powers to get rid of these nonconforming billboards. This is a billboard that does not conform. You cannot use those powers because we are saying we have this big powerful lobby and we have this language in the 1978 law that says you cannot exercise your normal powers."

We trust other property to State and local Governments and laws under the amortization. Why not billboards? Why do we not have a sanction that prevents the States and cities from regulating these boards? Do we not have any confidence in the States to use the power just as they use it otherwise in the exercise of their police powers?

Well, Mr. President, I hope this amendment is thoroughly rejected, that we have confidence to give the States the powers they always had up until 1971. If they want to use them, fine. If they do not want to use them, that is their business. But let us not handcuff them as they have been.

This bill provides for over $100 billion to be expended on transportation; a good portion of that will be spent, 50 percent of it anyway, on primary and interstate roads—nearly all of it on the primary and interstates. Are the citizens of the United States of America not entitled to some rights under that? And where the local community has said this is nonconforming, the zoning does not permit a billboard, the local community and the State is entitled to get rid of it under the powers that they have for every other instance in the exercise of their police powers. I certainly hope my colleagues will reject the amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MOYNIHAN. Will the distinguished Senator from Washington yield for just a moment?

Mr. GORTON. I would be delighted.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I wonder if I could ask the principals involved in this debate—and I declare my position, of course I support Senator CHAFEE and I am a cosponsor—would they have any interest in setting a time limit, to vote at a time certain? I do not in any way want to restrict anyone.

Mr. REID. Mr. President, if I can respond, there are a number of people in support of this amendment who wish to speak: The Senator from Louisiana, the Senator from Idaho, the Senator from Montana. I will have to respond.

Probably we will need another hour. I do not think we will use all that time.

Mr. MOYNIHAN. But you might.

Mr. REID. I think there are other people. Does that sound appropriate to the Senator from Louisiana?

Mr. BREAUX. Fine.

Mr. CHAFEE. Mr. President, may I respond to the distinguished floor manager, who has worked so hard on this? I have a problem in connection with a hearing in the Finance Committee that I attended earlier and am bound to return when a certain panel is there.

Mr. REID. I have the same problem.

Mr. CHAFEE. I am willing to move on. Frankly, I have said about as much as I am going to say. If we have other speakers on our side——

Mr. REID. Why do we not try to make it quicker than 1 hour.

Mr. CHAFEE. I think we can move along. When the panel comes up I have to go. The majority leader knew that when we scheduled this for today.

Mr. MOYNIHAN. I wonder if we could ask for an hour to be equally divided, and vote at 12:30?

Mr. CHAFEE. Mr. President, I would have to object.

Mr. MOYNIHAN. The Senator does not feel comfortable with that?

Mr. CHAFEE. I do not feel comfortable with a time agreement.

Mr. MOYNIHAN. Shall we indicate the probable time for a vote will be 12:30, so people will know that? I sense that is what is likely to happen.

Mr. REID. I am ready any time.

Mr. MOYNIHAN. We will proceed with our debate. I thank the Senator from Washington for letting me interrupt. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to set aside the amendment for 5 minutes to take up the amendment which was spoken of earlier by Senator DANFORTH, which I am doing on his behalf and which I believe has been cleared with the distinguished manager.

Mr. REID. Mr. President, I object. I have to go to Finance. We have to move this thing along. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington still has the floor.

Mr. GORTON. There having been an objection, I do not propose to speak at this point.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I will try to be brief in my comments. This is an issue that has been around this Congress for many, many years; in fact, decades. It is a question of how we handle outdoor advertising along our interstate and Federal aid highways.

As in most cases it is not as some would have it, a clear-cut issue. It is not black or white. There are a lot of gray areas. There are some who would say there should be absolutely no billboards for information and advertising purposes located on any highway anywhere in the United States of America; that we should ban all billboards, we should cut the legs off the boards that are up now, and we should do away with every sign on every highway completely and totally.

On the other hand, there are others who would take the opposite extreme position, which would say billboards are private commerce, that there should be absolutely no restrictions on private enterprise, that someone

should have the right to build as many billboards in as many locations as they can possibly afford to pay for through the normal process of renting the property and building the structure. If they want to build them within 5 feet of each other up and down this country, go for it because that is private enterprise and should not be restricted whatsoever.

I take the position there is an answer somewhere between those two extremes and therefore support the Reid amendment to this legislation, which I think is a proper and appropriate way of handling this particular problem.

My own State of Louisiana has struggled with the question of billboards and regulations on a new section of interstate highways. The States already have the right to say no billboards on the highways within their boundaries, if they decide that is the proper policy for that State. There are many States that have taken that position.

I think the State of Hawaii, the State of Vermont, and others have taken that position: We do not want any billboards. We do not want any built and we do not allow them.

That is appropriate. That is proper for the State to take that action if that is what they think the people in their State want to have and it is in their interest.

My own State of Louisiana tried to take a compromise position, tried to balance it out. We tried to say, yes, we are going to regulate them. Yes, we are going to allow them. Yes, they do serve a public purpose. They are informative. They help commerce. They help the free enterprise system. They help the traveling public. But we should regulate them. We should not have them build anywhere and as often as someone thinks he wants to build them.

So I think the proper approach is not an outright ban or moratorium, as the legislation is in this particular bill. It is a total moratorium, a total ban on any new billboards on interstate highways. I think that is wrong. But I think it is appropriate and proper to have an in-between compromise position, which we have with the current law.

The second thing I would talk about is the legislation allowing the boards which were legally erected to be taken down and removed without paying anybody anything for them. I think that is wrong. I think that is a violation of the Constitution of the United States which requires that no private property shall be taken for public use without just compensation.

The committee came up with a novel idea, which is typical of many cases in Washington. We are not going to pay you any money. We are going to pay you amortization.

If anybody thinks he can take amortization and go cash it, or take amortization and put it in the bank, or take amortization and pay his bills with it, I want to let him know that is not possible. Indeed, I think it is a novel concept the committee has come up with, to take private property in this country and say we are not going to give you a check, we are not going to give you cash, we are not going to give you an IOU to pay you for it ever, we are just going to say it has been up, therefore it does not amount to anything, it is not worth anything: take it down.

I understand there has been some discussion on the floor between my friends from Nevada and Wyoming about this article in the Wall Street Journal by Gordon F. Crovitz. Mr. Crovitz is assistant editor to the editorial page of the Wall Street Journal and is a regular contributor to the Wall Street Journal.

Having said that, I think it is appropriate at this time to yield to the majority leader who I think is signaling me to yield to him.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I thank my colleague. A number of Senators have been calling me to inquire as to when the vote might occur on this. It has been my practice to try to set votes at a time certain to accommodate the schedules of as many Senators as possible.

Following discussions with the mergers and the principal proponents and opponents of this legislation, I now ask unanimous consent that there be 20 minutes remaining for debate on the Reid amendment No. 304, equally divided and controlled between Senators REID and CHAFEE; that no amendment to the amendment or to the language proposed to be stricken or a motion to recommit be in order; and that at the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the amendment.

Mr. REID. Mr. President, reserving the right to object. I do not want to throw a monkey wrench into things, but if I could have 3 minutes because we have Senator BREAUX and Senator SYMMS wanting to speak. So can we have 3 minutes to my side?

Mr. MITCHELL. Would the Senator like 3 minutes on his time?

Mr. CHAFEE. We all spend time debating how fast we go. The panel I am interested in and the majority leader is interested in is starting at noon.

Mr. REID. You can go, and then come back and vote.

Mr. CHAFEE. I want to make sure I will be here to make sure everybody votes.

Mr. MITCHELL. Might I suggest, the panel, obviously, will not continue through the vote because the Senators in the hearing will have to come vote as well.

Mr. CHAFEE. With the assurance from the distinguished majority leader who is involved with the panel himself, I will be able to get there and still be here for the vote. That is putting you on the spot.

Mr. MITCHELL. I assure the Senator I will do my very best at that. As anyone who observes the Senate will be able to tell, my power to accomplish things is somewhat limited given the nature of that subject.

Mr. CHAFEE. Twenty minutes equally divided, 7 minutes here and 3 there, that makes 10, 20 minutes equally divided.

Mr. REID. It does not take a rocket scientist to figure out the noontime should work out just perfect. I need 3 minutes. It is not fair; Senator SYMMS has been here all morning, and Senator BREAUX has also been here.

Mr. CHAFEE. Senator BREAUX has finished, has he not?

Mr. BREAUX. I yielded to the majority leader.

Mr. MITCHELL. Mr. President, I amend my request to ask there be 23 minutes for debate, 13 minutes under the control of Senator REID, and 10 minutes under the control of Senator CHAFEE.

Mr. CHAFEE. Who says I am not a good fellow?

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

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation.

The PRESIDING OFFICER. Who yields time?

Mr. REID. The Senator from Louisiana is given 4 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, let me conclude with the fact that I think the amendment of the Senator from Nevada is essential. Amortization does not pay anybody anything for taking of private property.

The article in the journal pointed out a good point that under this amortization-type theory, a city could announce there could be no building taller than 10 stories within their cities' limits, and then announce owners will be compensated by allowing them to occupy the buildings for 5 years and then leveling the buildings. That is what amortization is all about.

Are we in this Congress going to extend that concept of the taking of private property when we have a better way of regulating outdoor advertising on Federal aid highways? The system is currently working, I would argue. There are States, as I mentioned, that have no billboards. They made that decision and its is totally appropriate.

My own State of Louisiana has taken the position of compromise in regulating billboards which I think is totally appropriate, regulating them as to where they can be located, how close to an interstate highway, and what areas,

how many they can have in a particular area. That is the proper approach.

As I said in the beginning, there are those who want no boards whatsoever, and there are those who want unlimited boards anywhere anyone wants to put them.

I suggest this Congress and this Senate reject both of those propositions and vote in favor of a balanced compromise which allows for a legitimate regulation. And if we decide to take down boards that were legally erected under previous regimes that, yes, indeed, compensation in this country, in America should be paid for the seizure of private property and a scheme by which we can say we are doing that by amortizing is indeed not in the American spirit and I think contrary to the dictates of the U.S. Constitution.

Therefore, I think we should all support the Reid amendment, and I yield back my time to my manager.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, how much time remains?

The PRESIDING OFFICER. Ten minutes forty-five seconds.

Mr. REID. I yield 6 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Sentor from Idaho.

Mr. SYMMS. Mr. President, I rise in support of Senator REID'S motion to strike section 137 of the Visual Pollution Control Act which was adopted during the committee markup. I always viewed that if somebody has something to sell, it is nice they can put a sign up and let people know where it is. That is basically what free enterprise is all about.

As Senator DOLE. said in this Chamber a few years ago when this issue was debated, "I come from a small town in Kansas. It is a great little town, but it is a good thing we have a sign to show people where it is or they would never find it."

So I think for us to look at this, and as far as this compensation issue with respect to amortization, I find it incredible that somone says that you have a sign and let you use it for 5 more years and then take a chainsaw to it, somehow that is paying you for it; I cannot quite understand that.

I know oftentimes people will face editorials that will tell them that somehow this is a good position for us to be in, to take down all the signs. But we have to remember that the same newspapers that write those editorials have a big advertising department and it is competition with them to have signs. There is also that aspect for us to think about.

But I joined with Senators REID, SIMPSON, and BURDICK in voting against this amendment when it was offered in the committee. Obviously, I hope the full Senate will support the Reid position.

It is not a new issue, so I will keep my remarks very brief, in fact, briefer than I would like to. But both the proponents and the opponents of this amendment focus on a single aspect of the complex revision of the Highway Beautification Act of 1965; namely, the elimination of provisions in existing law that require States to pay cash compensation for removal of noncoforming signs.

I want to point out that a variety of new requirements in this amendment would be imposed on States with a threatened loss of highway funds if the States fail to enact conforming legislation.

First, cash compensation. By repealing current law, Senator CHAFEE'S amendment would allow State and local government to amortize the value of nonconforming billboards to take it down, pursuant to Federal law, without paying the owner a single dime. That is really what we are talking about. This is often touted as States rights, but it is anything but States rights. The Visual Pollution Control Act is not a States rights proposal. If Members want to give back the States rights to regulate billboards, we ought to just repeal the Highway Beautification Act of 1965.

The fact is, if Senator REID is not successful in his vote, I am toying with the idea to offer that amendment so we will give it back to the States if that is what the proponents want. Let us give them the authority to control the billboards. The Visual Pollution Control Act is the antibillboard crowds attempt to have their cake and eat it too. They are not proposing to leave each of the States free to regulate billboards as they see fit. In fact, the Visual Pollution Control Act would substantially tighten Federal control of billboards. At the same time, it would allow State and local government to remove signs more easily by repealing the requirement that cash be paid to the owner whose property the city or State is taking.

My State happens to be in conformance with the National Beautification Act. They have paid people, they have taken down the nonconforming signs. What is happening here, Mr. President, is the proponents of section 137 of this bill want to give back the rights only to State and local governments that they want to take the signs down.

I believe the Federal Government is going to regulate billboards on highways across the country, and the Congress has a responsibility to see that private property rights are guaranteed in the fifth amendment, as they are in the fifth amendment. They are guaranteed and we protect by requiring cash compensation for the removal of nonconforming billboards. If those who find billboards offensive believe they will be better without Federal regulation and strict adherence to the fifth amendment, then an amendment to repeal the Highway Beautification Act might be logical and justifiable for this position.

Let me mention a few of the finer points of this. Enactment of the Visual Pollution Control Act would require nearly every State to make substantial statutory modifications to tighter controls. States failing to enact these modifications would face up to a loss of 5 percent of their surface transportation program.

So Senators need to be aware of that. That is in this section.

The act requires States to prohibit the erection of any new billboards along the interstate and primary highways, prohibit any modification or maintenance of conforming signs that may extend the useful life of a sign, prohibit the cutting of trees and vegetation to improve and maintain visibility of signs.

It is important to note that nothing in current law prevents States from enacting these billboard control measures. In fact, several States have gone even further by banning billboards entirely.

But the proponents of the Visual Pollution Control Act want to force the rest of the States to enact billboard controls they have not chosen and perhaps would not choose or enact on their own. So this will be a matter of mandating to the States what they have to do.

So I hope my colleagues will support the position of the Senator from Nevada to strike the Visual Pollution Control Act from the bill.

I want to reiterate, from my point of view, and with all due respect to my colleagues who have spoken on the other side of this issue, this is not, in my opinion, a States rights proposition.

In fact, as I have said, if Senator REID'S motion is unsuccessful, then I believe those of us on the side of Senator REID should consider offering an amendment which would truly return this regulation of billboards to the States. I think Senators, in voting for this, should be prepared, if Senator REID is unsuccessful, may get an opportunity to really demonstrate their love for States rights if we offer an amendment just to strike the entire section of the law which would then put it in conformance with States rights and get the big powerful hand of the Federal Government out of the issue.

Mr. President, I thank the Senator from Nevada for his efforts on this issue.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted equally.

Mr. REID. Does the Senator from Rhode Island care to yield back the remainder of the time?

Mr. CHAFEE. No. I have, as I understand it, 10 minutes. I would like to reserve that time. If the Senator wants to proceed, he may have more time than I do.

The PRESIDING OFFICER. The Senator from Nevada has 3 minutes and 54 seconds; the Senator from Rhode Island has 10 minutes.

Mr. CHAFEE. I may not use all my time. I will save it for the end.

The PRESIDING OFFICER. Time will be deducted from both sides.

Mr. REID. Mr. President, as a lawyer, I learned a long time ago in my first few cases that, if you are in trouble with the facts, you argue the law. Basically, that is what we have here.

What we heard from the Senator from Rhode Island to maintain this in the bill is that the law supports his position. Of course, we know that is not the case. I cited cases from Colorado, Pennsylvania, and read the language from those cases supporting the position to strike this.

What this deals with, of course, is the fifth amendment of the U.S. Constitution.

There is also no question about the fact that the number of billboards since 1966 has gone down significantly, from 6.6 for every 2 miles, to about 1 for every 2 miles of roadway.

There is no way the Senator from Rhode Island or anyone speaking in favor of the language now in the bill addressed what I feel are some extremely fallacious points in the language now in the bill. What about material in the signs? Is it fair that you not only have to tear the signs down but you cannot use them to build another billboard, even if it is a legal one?

What about the law as it relates to the foliage?

There has been some argument given about all those that support the position of the Senator from Rhode Island. In fact, I heard the administration—the Comptroller General—that is unique—now he is being cited as a legal authority. And in the same breath he says this very powerful billboard industry. I do not think anyone would compare them to the administration, the Comptroller General, and the American Bar Association, who has never seen a law they did not like because it creates more work for lawyers.

So, Mr. President, I submit we are dealing here with the fundamental principle for the American system of justice that I would summarize by again quoting Judge HEFLIN, who I think is the person we all look to for legal authority in this Chamber.

Just as important as the right to do business is the right to possess private property without fear the State or the subdivision can confiscate it without payment of cash compensation.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Time will be charged equally to both sides.

The Senator from Nevada has 54 seconds; the Senator from Rhode Island has 9 minutes and 30 seconds.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. How much time do I have?

The PRESIDING OFFICER. The Senator from Rhode Island has 8 minutes and 30 seconds.

The time of the Senator from Nevada has expired.

Mr. CHAFEE. Mr. President, I would like to briefly sum up what the situation here is. Under the language in the bill before us, the legislation, the States are not required to take down any sign. They are not required to use amortization. They are not required to do anything. They are not required to invoke anything.

What the Senator from Nevada wishes is to go back to the law as it currently exists which changed the processes that have always been in effect before 1978, and deprive the States of the power to use amortization in the exercise of the police power, a power the States have in the exercise of their police power against all other conditions except billboards on interstate highways and on primary roads.

That is what the billboard lobby so successfully inserted in, ironically, the Highway Beautification Act of 1978. They deprived the States and the communities of a power they had always previously had, and they want to keep it. Who blames it? What a wonderful thing they achieved for themselves. It did not do much for the public, and it certainly hamstrung the local governments.

But for the billboard industry, it is a marvel that in any nonconforming area they have in mind, the billboard is not permitted there in the first place but they have to be paid up front with dollars. How many communities now under the strapped conditions they are in have the dollars to pay up front money to take down the sign instead of using the power they have for every other possibility under the police power, namely the use of amortization.

That is the first point. The suggestion is that we do not want to get the heavy hand of Federal Government in here. The ultimate of the heavy hand of the Federal Government is the law as it currently exists, which interferes with the rights in the communities. That is the Federal Government interfering. I say, let us go back and give the powers to the States, as they previously had before 1978.

Second, the suggestion is that all billboards are going to be taken down under this, and no one will know how to get to this town or that town. That is just not so. No one is suggesting that conforming billboards have to come down. And, mind you, there are between 300,000 and 400,000 of those in the country along primary and interstate highways.

As everyone knows, in those States—for instance, Vermont—which have chosen to outlaw all billboards, they can put up informational signs directing overnight lodging, gasoline, food, or whatever it is.

So the suggestion is that the poor traveler is going to be wandering out on the highways not knowing what is where, and that is just not so.

Mr. President, for these reasons, I hope that my colleagues will join with me and others in voting against the Reid amendment.

Mr. President, I understand there is no time left on that side. I am prepared to yield the remainder of my time.

Mr. SPECTER. Mr. President, I support the amendment by Senator REID to strike the antibillboard provision from the committee bill because the provision does not provide fair compensation for the property which it takes.

Highway beautification is a matter that I believe deserves consideration as a major national issue, while ensuring just compensation for billboard removal when removal is necessary. I concur with the proposal in the bill to allow the States and local governments to prevent the construction of additional signs, and to order the removal of signs which detract from natural beauty. The proposal in the bill, however, would be unfair because it would not guarantee payment of fair market value to a sign owner who is required to remove a sign.

The fifth amendment of the U.S. Constitution guarantees just compensation when the Government takes private property on behalf of the public good. Therefore, when property is taken under eminent domain, clear-cut just compensation and due process provisions guarantee that the owner receives fair market value for the property. The amortization plan provided in the bill does not treat the removal of a billboard in such a manner. As a result, if a billboard owner who is ordered to remove a sign and is required to accept an amortization plan, that individual might never actually receive the fair market value of his property. Even after amortization for tax and other subjective criteria, property still maintains its value, and fair compensation should be provided.

The Commonwealth of Pennsylvania is one of 35 States with a law on the books requiring the payment of cash

compensation to the billboard owner when a billboard is removed by the State or locality. In addition, Pennsylvania courts for many years have taken the position that provisions for the amortization of nonconforming billboards are invalid under the State constitution.

For these reasons, I oppose the provision in the committee's bill and support the amendment offered by my colleague from Nevada. I am hopeful that billboard control without departing from the principles of just compensation can be achieved.

Mr. BRYAN. Mr. President, I rise today in support of the amendment offered by the senior Senator from Nevada.

As many others have pointed out throughout the years, the issue now before us is simply one of fairness. Since 1965, when Congress first passed the Highway Beautification Act, owners of legal, but nonconforming, billboards have received just compensation in the form of a cash payment for the taking of a sign in compliance with State law.

I can understand the problems caused by the just compenstion requirement. There is no doubt that it increased the cost of removing nonconforming billboards. Allowing amortizaton would reduce the cost of removing nonconforming billboards. The fact remains, however, that these billboards are private property, legally erected at a cost to private citizens. When someone owns a home that needs to be torn down to build a highway, the Federal Government does not amortize the home, it pays just compensation. Under the fifth amendment, I cannot see how we can do anything less for the owners of nonconforming billboards.

I think this issue is confused a bit by the terminology involved. There is an important distinction between nonconforming billboards and illegal billboards. While illegal billboards are erected illegally, and thus can be removed without any compensation to the owner, nonconforming billboards were erected legally, but do not conform to subsequent changes in the law. The removal of illegal billboards has been very successful—the U.S. Department of Transportation reports that as of September 30, 1990, more than 650,000 illegal signs have been removed. This represents 95 percent of the illegal signs erected across the Nation. The issue of removing nonconforming signs should not be confused with the equally, if not more, important issue of removing illegal signs, an effort which has been very successful.

Governments at every level make decisions based on the best interests of their constituents. Often, however, these decisions have costs. Private citizens who are adversely affected by decisions in the public interest must be compensated. As a State or local government considers proposals to eliminate or restrict the use of billboards, the cost of reimbursement to the owners of existing billboards should be factored in. As the experience of States like Maine demonstrates, such programs can be successful. The use of amortization as a substitute for such settlement ignores the fundamental constitutional protection against the seizure of private property.

In addition to the provision allowing amortization of nonconforming billboards, several other provisions of the proposed legislation concern me. In addition, the prohibition against improvements on nonconforming billboards is itself a form of the taking of private property, if the Government cannot require the billboard owner to remove the billboard, it follows that the Government should not require the billboard to fall into a state of disrepair. Even if a sign is nonconformig, it is still private property, and the owner should retain the rights of all property owners.

Mr. President, I urge my colleagues to vote in favor of the amendment to strike the outdoor advertising provisions of S. 1204.

Mr. FORD. Mr. President, when the Federal Aid Highway Act was before the Senate roughly 5 years ago, I spoke against the billboard language which was in that bill. Let me repeat what I said then: I am not opposed to the regulation of billboards, I am not opposed to enforcement of the Highway Beautification Act. What I am against is language that prohibits the construction of new billboards along the Nation's highways, language that would effectively wipe out thousands of small businesses in America.

Language in S. 1204, the Surface Transportation Efficiency Act which is before us today, is no different than that which was defeated on a floor vote last time around, and it has the same ultimate and devastating effect—it will force out of business companies that make billboards and will cause irreparable damage to the thousands of towns and legitimate businesses across the country that depend on them.

Mr. President, I am not talking about the giant companies which own roughly 80 percent of all existing billboards; I am talking about just plain folks, about small, family-run enterprises that are the true embodiment of the American way.

Let me give you a few examples of the kind of operation you will be closing down if you vote to keep the Chafee language in the bill. One that is in my part of Kentucky is a modest three-man business. The father operates the telephone, taking orders and generating clients; one son designs the billboards; and the other goes out and actually builds them and puts up the paper—an efficiently run operation if there ever were one: a father and his two sons.

A second example is that of a man and wife team who started out in 1958 with $50 to put up their first billboard. Today that company is a multimillion-dollar operation employing 11 people and owning 400 billboards.

Then there are the advertisers themselves, such as the small chain of family restaurants adjacent to the Illinois Turnpike whose sole source of advertising is, quite simply, billboards. Without these signs, they would have to close down and would not be in business tomorrow.

Americans like billboards. Tourists, business and even municipalities depend heavily on outdoor advertising. Why the State of Maine, which has banned billboards within its own borders, has been known to purchase billboards in Massachusetts advertising the beauty of its fall foliage. And how else is a stranger driving in unfamiliar territory supposed to know about restaurants, gas stations, hotels, and campgrounds if there isn't a sign indicating the existence of such services? As Senator DOLE pointed out during the Senate's last debate on the subject, some of the smaller towns in Kansas would just disappear if there were no billboards. I wager that would happen somewhere in every State in the Union.

I wonder what happened to the initiative of the city of New York of a few years ago, an initiative designed to generate millions of dollars in new revenue. Talk about the widespread utility and use of billboards. The city solicited bids from outdoor advertising companies to lease over 120 city-owned properties for the exclusive right to install and display outdoor advertising on approved surplus, city-owned properties. I wonder how much the coffers of the largest city in New York have profited from outdoor advertising?

I have been working closely with small billboard operators over the years and I can categorically say that they are in favor of stronger regulation of the billboard industry. They are in favor of strict enforcement of the Highway Beautification Act and would even agree to a Federal permitting scheme to generate funds for illegal sign removal.

All I am trying to do here is convey the message: Regulate but don't punish. Don't punish these small businesses, operators as well as their clients. There are many other fairer alternatives to banning the construction of billboards. I would strongly suggest that, before the U.S. Senate goes on record against small businesses, it first thoroughly examine the issue and the potential economic repercussions of the Chafee language.

I urge my colleagues to support the motion to strike.

Mr. SIMPSON. Mr. President, we have seen this bill before. The Senate has voted on this matter before and we have repeatedly defeated the effort to

allow the removal of billboards without just compensation.

This is a difficult issue—it is one that seems to touch off an emotional response all across the country.

I certainly appreciate the desires of Senator CHAFEE and others to satisfy their constituencies in heavily urbanized States who do not want to look at cluttered billboards. Current law allows your States to pay the owners for the sign and then to take them down.

But in the open West it is a different story. Billboards are a very valuable advertising tool—for businesses and communities. Billboards are an investment. Not only a fiscal investment, but an investment in that community and attracting traffic off of the interstates and into some of our smaller communities. It is inappropriate to amortize these billboards as a means of compensation. No money is ever paid for the removal of the signs and it is just a clever way to eventually force the billboards out of existence.

The cash payment program has worked well. If it is important enough for someone to remove the billboard—he pays the cash. But if it is not important enough to merit spending the money, then we should not be changing the law to permit the removal of the signs at less of a cost.

Senator REID appropriately addressed the issue of States rights. It is a States right to decide how its highways will look and if billboards are allowed or not. And if a State decides not, then it needs to come up with the money to buy the billboards and take them down. How a State looks, how it promotes its tourism and helps its communities, is a State decision. Some want open vistas, some want the billboards. Let us let them decide, but let us not pass Federal legislation banning the construction of new billboards along interstates and allowing some fancy bookwork called amortization to remove those that already exist. It is heavy-handed Federal lawmaking, it supercedes a States' responsibility, and it's not only unfair but very questionable in its legality against the billboard owner.

Mr. HEFLIN. Mr. President, I would like to point out that the Highway Beautification Act is not an environmental issue, but it is one involving property rights.

Clean air and clean water are not involved, nor are our national parks, national forests, or scenic highways. What is involved is the ability of a legitimate industry to do business in commercial and industrial areas, where service stations, fast-food chains, retail stores, and the like are allowed to thrive.

Just as important as the right to do business is the right to possess private property, without fear that the State or its subdivisions can confiscate it without payment of cash compensation.

Police power removal of signs through amortization has not reared its ugly head in Alabama until the last few years, when it appeared in a Tuscaloosa ordinance. Birmingham now has such an ordinance under consideration. I do not want to see this perfectly legitimate industry decimated by amortization.

Mr. President, this amendment would jeopardize that right to private property and I hope my colleagues would reject this amendment

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—60

Adams	Dole	Mack
Bingaman	Domenici	Mikulski
Bond	Exon	Murkowski
Boren	Ford	Nickles
Breaux	Fowler	Nunn
Brown	Garn	Packwood
Bryan	Gore	Pressler
Bumpers	Gramm	Reid
Burdick	Grassley	Riegle
Burns	Hatch	Sanford
Byrd	Heflin	Sasser
Coats	Helms	Shelby
Cochran	Inouye	Simon
Conrad	Johnston	Simpson
Craig	Kassebaum	Specter
Cranston	Kasten	Stevens
D'Amato	Kohl	Symms
Daschle	Levin	Thurmond
DeConcini	Lott	Wallop
Dixon	Lugar	Wellstone

NAYS—39

Akaka	Harkin	Mitchell
Baucus	Hatfield	Moynihan
Bentsen	Hollings	Pell
Biden	Jeffords	Robb
Bradley	Kennedy	Rockefeller
Chafee	Kerrey	Roth
Cohen	Kerry	Rudman
Danforth	Lautenberg	Sarbanes
Dodd	Leahy	Seymour
Durenberger	Lieberman	Smith
Glenn	McCain	Warner
Gorton	McConnell	Wirth
Graham	Metzenbaum	Wofford

NOT VOTING—1

Pryor

So the amendment (No. 304) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the pending Byrd amendment be temporarily laid aside for the consideration of an amendment by my distinguished partner in this enterprise, the Senator from Idaho [Mr. SYMMS].

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

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I know many Senators are wondering what the schedule is going to be here.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMMS. Mr. President, I have just been informed that the distinguished chairman of the Finance Committee wishes to make a speech right now.

I might just say that I have an amendment that I will be offering on behalf of Senator BOREN and myself immediately following the speech of my chairman. I might also say, Mr. President, that the amendment I will be offering on behalf of myself and Senator BOREN is otherwise known as Senate bill 50, which has 40 bipartisan cosponsors. As of June 12, 40 of the Members of the Senate are sponsors of this legislation.

This legislation deals with the taking regulations of the law, the Private Property Rights Act it is called. The amendment that I will be offering has the full support of the administration. In fact, the Vice President called me this morning and the administration would like to have it amended on the highway bill.

I do not know how controversial it will be or how much debate will be required, but I would just like to advise my colleagues that I have agreed with the members of the Commerce Committee that during the debate of the Private Property Rights Act we would yield the floor to the Commerce Committee for 5 minutes while they put their section in this bill that has been cleared on both sides of the aisle. That is kind of the schedule for now.

I anticipate that we would have a record vote on the Private Property Rights Act, although if the committee chooses to accept the amendment, those sponsors I am sure would agree with me that we would not push the Senate to a record vote.

So, with the understanding that I first be recognized when the Senator from Texas has completed, for the purposes of offering an amendment, I will then be glad to yield the floor.

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

Mr. BENTSEN. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I thank my good friend from Idaho.

Mr. MOYNIHAN. Mr. President, if the Senator would be kind enough, may I ask now, Mr. President, this is the fourth time in 15 minutes that we had to respectfully interrupt the proceedings, but the Senate is not in order and we are going to hear an important speech.

The PRESIDING OFFICER. The Senate will be in order.

If Senators have discussions, they should take them off the floor. The Senate will be in order.

The Senator from Texas is recognized.

Mr. BENTSEN. Thank you, Mr. President. I thank again my good friend, the distinguished Senator from New York, the manager of this piece of legislation.

It is a major change in the way to approach some of the problems that face transportation in this country. I note that it is entitled the Surface Transportation Efficiency Act. It urges upon us a major departure, a major departure from previous Federal policies. It is designed to introduce into our surface transportation ideas of cost efficiency and productivity.

Yet, when I look at S. 1204, when I look at the funding formulas, and the major factors effecting the distribution of highway funds in the 1990s, what do they do? They go back to an archaic formula, for example, postal routes. Now that was first brought into the equation in 1916. I do not think the committee has brought the funding provisions face to face with the modern problems of growth and what has happened to the transportation system.

S. 1204 incorporates another anomaly which I think weakens my friend's stated objective of bringing efficiency and productivity to the surface transportation system of this country. Current law would require the use of the 1990 census data in making funding allocations after the 1990 data becomes available later this year. But S. 1204 works the other way. It says during that entire 5-year authorization period, what you would be using is the 1980 census data; completely ignoring what has happened to the population of this country over the last decade.

This unexplained change in current funding mechanisms would extend a flaw in the current funding formulas: These formulas fail to consider and accommodate the demand for transportation services and products of fast-growth States. This flaw in our highway funding mechanism ought to be recognized by our friends and colleagues who crafted this piece of legislation. It has now been over 5 years since the General Accounting Office released its report identifying the inefficiencies inherent in the outdated formulas and recommending their replacement with formulas that more closely reflect the extent of these highway systems, their present use, and their increases in usage.

Implicit in the General Accounting Office's recommendation is the conclusion that current funding formulas lead to irrational, inefficient outcomes in the allocation of highway funds amongst the States. By retaining those archaic formulas, the bill before us, with respect to that portion of the legislation, most be judged to have failed. These formulas do not accomplish the objectives stated in the title of S. 1204.

This legislation must be judged to have failed by other standards as well. Last Thursday, in his introductory remarks beginning this debate, my friend from New York reviewed the early history of the highway trust fund and the Interstate System which it supports. In those comments my friend described how the funding of the long ribbons of asphalt and concrete extended westward relied upon a large transfer of revenues out of the Northeastern States into the South and into the West.

I have long recognized my friend's scholarship, and I recognize it on this one. But, I must say, I do not think it has been brought up to date. I have no doubt but that his description is correct during an early period in the construction of the Interstate System. But, Mr. President, matters are different today, and they have been different for many, many years.

Figures from the Federal Highway Administration show that, clearly, over the full history of the highway trust fund since 1956, the net flow of highway dollars has been precisely in the opposite direction, from Southern and Western States into the Northeast. And this flow of revenues has been massive.

I share the frustration expressed by several of my colleagues in finding consistent facts and numbers, so we know we are comparing apples to apples, oranges to oranges, because we have had so many differing figures. So, in order to avoid a confusing debate over whose numbers are better, I have conceded the question and I have chosen to rely on the same source that the Senator from New York used last Thursday in his discussions of each State's return on investment from the highway trust fund, cumulative for the years 1956 to 1989, except that I have obtained from the Federal Highway Administration an updated version of that table, which includes fiscal year 1990 as well.

Between 1956 and 1990, 6 Southern and Western States—only 6—have accounted for fully two-thirds of the entire net transfer of highway revenues among the States. Other States, largely in the Midwest and in the South, also saw a net outflow of highway revenues since 1956. But I will focus mainly on the 6 Southern and Western States that account for two-thirds of the entire transfer of revenues since 1956. These six States: Texas, California, Florida, North Carolina, South Carolina, and Oklahoma, paid almost $7 billion more into the highway trust fund than they received out of that fund.

Taxpayers in the State of Texas contributed almost one-third of that $7 billion, more than any other State. And I must say it would have been far more if the Senator from Texas, in 1982, had not prevailed in putting an 85-percent floor as to what must come back as compared to what was sent to the highway trust fund.

Of that $7 billion, what we have to also realize is it reflects none of the inflation that has taken place over the last 35 years. If we crank that in, then we would be talking about an enormous additional amount of money.

Which States received the benefit of this massive transfer of highway revenue? Many did, among them the States of New York, Connecticut, Massachusetts, Rhode Island, and Vermont. Since 1956, these five States have received $6.9 billion more from the trust fund than they paid into the fund, nearly matching the $7 billion outflow from the 6 Western and Southern States I have identified. Again, that is in nominal dollars, not converted into today's dollars.

There is no question in my mind which direction the revenues have flowed over the history of the highway trust fund. They have defied gravity. They flowed upward, North and East.

But that is all history, Mr. President. The central question, properly before us, is how these trust funds are to be allocated over the next 5 years under the provision of the bill now before us. I do not deny there would be changes in the proposed structure of S. 1204. Indeed there will be a few winners; States such as Maine would be transformed from a donor to a donee State. There would also be a few new losers, such as Alabama, Illinois, and Louisiana; States that were previously donee States and would become donor States.

But there is also a lot that does not change under the bill. For example, for the same five Northeastern States that drew $6.9 billion more from the trust fund than they paid into it in the first 35 years of this fund—States that are among the richest in the Nation, with the highest per capita income—S. 1204 would add another windfall of $5 billion over the next 5 years.

Remember—I heard my friend say, which state, 350 miles across——

Mr. MOYNIHAN. Wyoming. I said God made Wyoming.

Mr. BENTSEN. I agree that there are always going to be donee States, and I think there should be. You make a very valid point about Wyoming, and about Montana, Nebraska, States that have substantial territory but very few taxpayers to pay that gasoline tax. How are we going to have an Interstate

System? Even if it is already virtually completed we have to maintain it, and, therefore, there are going to be those donee States. But the logic does not follow when we are talking about a State that has high population in relation to its geographic area and has high income per capita, and then remain a perpetual donee State.

There is a basic inequity there that has to be corrected. I do not know that we have the votes. I understand how one could artfully put together a coalition where there are more winners than there are losers. And I understand the propensity of us to all look after our own particular States when it comes to the disbursement of Federal revenues. We all want to be sure we get a large share for our constituents.

But at some point the question of equity has to come in. If we are going to have the continued support to put through a highway program, we have to give some consideration to a formula that is basically out of date and that has to be corrected.

During the next 5 years $2.7 billion will be required from the States of Texas, California, Florida, North Carolina, South Carolina, and Oklahoma in order to fund the revenue transfers to those six Northeastern States. Moreover, another $2.3 billion in revenues from the States of Alabama, Arkansas, Georgia, Louisiana, Illinois, Indiana, Kentucky, Michigan, Mississippi, Tennessee, and Virginia, would be required to complete the funding of this $5 billion transfer to these Northeastern States.

Mr. President, as one might expect, four of those five Northeastern States are very ably represented on the committee of jurisdiction. Is there any mystery why they have retained the old funding formula? We would expect nothing less from our friends and colleagues than to promote the interests and the welfare of their own States in the consideration of such important legislation. I understand.

But at some point enough is enough. The funding formulas on which the proposed allocation of revenues is dependent has no legitimacy. They fail all standards of reasonableness and equity. Quite frankly, Mr. President, they are rigged.

I recognize the fact, again, that we are going to have donor and donee States. But there has to be some change in the formulas we have today, because many of these States that are now heavy on the donee side cannot be considered rural States. They are urbanized, industrialized, wealthy States.

The legacy of inequity in highway funding lies at the core of the debate in which we are now engaged. There are some who seek to dismiss those who oppose the funding formulas of S. 1204 by claiming we simply seek for our own States the advantage which others would win if S. 1204 prevails.

They assume, and would have you believe, that all claims to these moneys are equivalent, that we have no means of judging one claim over another, that we are each simply "bringing home the bacon," nothing more, nothing less.

But Mr. President, that is wrong. At some point there has to be a limitation.

There is a standard of equity—that is what we are discussing today—and many of us have opposed these archaic formulas for quite some time. Many of us who oppose this bill represent taxpayers who have carried far more than their fair share of the highway funding burden over the past four decades, despite the fact we are fast-growth States with greater needs for transportation improvements.

Mr. President, there are some who defend S. 1204 by merely dismissing the issue at hand as one of dollars: who gets them, and who does not. It is far more than that, Mr. President. The insight reflected in this legislation is the clear recognition of the central role of transportation in American life today. Henry Ford's extraordinary invention and the realization of President Eisenhower's dream of a comprehensive network of interstate highways has torn us apart, as the Senator from New York's article in the Reporter back in 1960 so accurately described, and yet simultaneously has bound us together in entirely new ways. My colleague cannot be more right in that.

But today what we are debating is more than the allocation of Federal highway funds. Really, we are determining the quality of life for millions of Americans—the time they spend on congested urban freeways instead of at home with their families. I experienced that as late as last evening as I found myself in a gridlock on the George Washington Parkway for 45 minutes because of a stalled car and a policeman who thought he was trying to help.

We are determining the environmental quality of many of our cities: which ones are going to meet the rigorous air quality standards of the Clean Air Act and which will not. We are allocating opportunities for economic development and employment growth—which cites and States will have the transportation infrastructures that are adequate to accommodate the demands of new and growing businesses and which ones will not.

Indeed, while we may prefer not to view the matter quite so clearly, nevertheless, in allocating the funds which will be adequate, or not, to resurface the deteriorating roads in each of our States, replace one bridge but not another, improve one railroad crossing but not another, widen one stretch of two-lane road to four lanes but not to widen another, we are allocating the risk to life and limb among the citizenry of our various States. We are not simply dividing the pork.

Mr. President, this legislation is ambitious and has many good things in it. I just voted with my distinguished friend on the last amendment. I think he is absolutely right in what he is trying to do with the billboards. I have that problem in my own State. Drive into Houston and take a look. It is one billboard after another.

I used to be on the other side of that argument. I used to be on the billboard side, because of the argument of compensation and whether you are really taking property without compensation. And then I finally realized you are never really going to get them down that way, and so you have to amortize it. Give them time to amortize out their investment.

But on this one, despite my great respect for my friend from New York who has worked long and hard, I think that the distribution of funds is a very serious inequity. I believe we can, and must, correct that flaw replacing this Edsel of a funding formula.

I am not asking for a funding formula that is finally going to restore the roughly $2.5 billion outflow of revenues donated to other States since 1956 by the taxpayers of Texas because some of it just had to happen that way to get this interstate across those Western States. I cannot even reasonably expect adoption of a formula that will make Texas a donee State for the next 5 years. But I will fight alongside my colleagues to adopt a formula that accurately reflects the transportation needs for the citizens of my State and other States that have been shortchanged for too long.

Thank you, Mr. President.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho requested to be recognized next.

Mr. SYMMS. Mr. President, I further extend my unanimous-consent request to yield 5 minutes to the manager of the bill without losing my rights to the floor.

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

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to take a moment to thank my chairman and friend for so many years, the senior Senator from Texas, for his remarks, and just to make some very brief comments about them.

First of all—because it is relevant—he mentioned that in my opening remarks I commented that the Interstate System would have the result of a flow of resources out of the Northeast quadrant to the South and West.

I think he will find that that was an article written in the Reporter 30 years ago. At that time, it was expected the interstate would be finished by 1969—a 15-year enterprise. I suspect what I

wrote was accurate then. I could not for a moment assert that it is accurate now.

My point is that I think in the highway program we have a classic case of public sector disease. This system did not get finished in 15 years. It took three times as long and five times as much money as it was meant to do. A public sector which does not have to account for costs, and does not have to produce productivity increases accomplish that, as no one knows better than the Senator from Texas.

A very important fact is that we really do not know this data very well. We are dragging it out of the Department of Transportation. They have not had to know. Why know what the prices and costs are when they do not make any difference? That is the public sector disease. Transportation productivity, as the Senator has heard me say, is growing at the medieval rate of 0.2 percent.

As an example of the complexity of this program; ask what are the per capita outlays? Nationwide, the per capita outlay for 1990 from the trust fund was $54.25; New York got $33.59, Texas got $60.41, and Wyoming got $245.74.

Just doing the ratios of dollars received per dollars constitute conceals per capita effect and the impact of the program. It does not reflect the fact that the trust funds only pay out about 94 percent of what they bring in because 6 percent is overhead, public lands, Indian lands, emergency relief, and the like.

Just to repeat that what the committee did, absent any powerful rationale one way or another, was to accept the historic pattern of outlays. That may prove to have been a mistake, but it was not an inadvertent one. We just judged this was the best case we could make to people. You will get what you have been getting, and there will be more dollars.

Mr. BENTSEN. Mr. President, I say to my distinguished friend, I am delighted to have his statement concerning his previous statement, and I did say I was sure he was right then, but later that changed.

I agree with him very much insofar as the question of the efficiency of our highway system, or the lack of it. I think it has been quite a shock perhaps to some of the highway people in this country to find what has been happening in Europe with the improvements, the increase in productivity, and the permanence of the installations as related to ours.

Hopefully that will be an education that we will absorb, and we will change some of our production methods.

I also want to say to my friend from New York that I understand his desire to see if we cannot achieve some accommodation in this. I am hopeful we can.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Idaho, who has been very forbearing.

AMENDMENT NO. 305

(Purpose: To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, and Mr. WALLOP, proposes an amendment numbered 305.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

"SECTION . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act."

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other estabishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions taken pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

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

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 306 TO AMENDMENT NO. 305

(Purpose: To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible)

Mr. SYMMS. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, and Mr. WALLOP, proposes an amendment numbered 306 to Amendment No. 305.

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

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

The amendment is as follows:

Strike all after the word "SECTION" and insert the following:

" . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—

(1) No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditious manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General

has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action".

Mr. SYMMS. Mr. President, I am going to speak very briefly on this amendment, but just to describe it to my colleagues again, this is what is known as the Private Property Rights Act, Senate bill 50. It enjoys the sponsorship of many Members of both parties. There are 41 cosponsors as of right now.

Mr. President, I just received a call from the Vice President this morning asking me to please amend the highway bill and put this amendment on it. It is something the administration considers important in the process of this work.

I will ask unanimous consent at the end of my remarks to include letters from the Vice President, from the Justice Department, letters from the Senators who are sponsors of the other bill, and the following organizations who support it, some 45 or 50 in number, letters from various farm organizations, and other associations and groups that support this, the National Federation of Independent Business, among others.

Mr. President, as the Nation has developed its system of roads, highways, turnpikes, interstates, it has often been necessary to cross someone's private property. In some cases it has been necessary to clip off the corner of the field or go right through the middle of the field or shave out the backyard. But throughout the building of our highway system one principle has underlined every single instance where the public need for transportation has required easement across private property. That principle is recognized within the very Bill of Rights whose bicentennial we celebrate this year as the sanctity of private property and the necessity of "just compensation."

Mr. President, I sent that amendment to the desk on behalf of myself and Senator BOREN from Oklahoma, the distinguished senior Senator from that State who has been a great help to me in this effort, as well as another group of Senators who are also sponsoring the amendment today.

All of the Senators, I might say, who are sponsors of Senate bill 50 for one reason or another may not be sponsoring this amendment. I did not want to confuse that. But there is a large contingent, bipartisan contingent of Senators, supporting this amendment today along with Senator BOREN and I.

The authors of the Bill of Rights understood that property cannot be taken for public use without justifiably compensating the owner. The fifth amendment prohibition on "taking without compensation" guarantees a basic human freedom, the right to be secure in one's own property, to know the value of what you have labored and saved for cannot be denied you even if an overriding public need demands the use of a particular piece of property in which that value is stored. That property may be taken to satisfy the public need but only in exchange for something of equal value. If it is in the good of the public interest, then it may be taken, but just compensation has to be rewarded.

The "just compensation" clause has not been a serious obstacle to our Nation's highway program. But there are some who believe it is too great an obstacle for other pressing public wants and desires as Congress has sought to supply the public with certain values such as open space, wildlife habitat and recreational areas, while at the same time laboring under record budget deficits.

Congress has treaded dangerously close to "usurping the private property of individuals" in the name of achieving a public goal.

When the Government regulates and denies the value of someone's property without initiating formal condemnation proceedings, it is called "inverse condemnation" or a "regulatory taking."

Right now, under the current system, the only recourse for those who believe their property has been "taken" in this manner is to sue the Government under the fifth amendment, a recourse that may cost someone as much as $50,000 just for starters. It is not a way for Americans at large to secure their private property rights, which is why I am offering this amendment. It is why the Vice President called me this morning.

It is believed by members of this Government and members of the private sector who own property that we need to require all agencies of the Federal Government to establish and follow administrative procedures for minimizing trespasses on private property.

The amendment, drafted with the assistance of the administration, is designed to build on already existing procedures required by the President through Executive order. The amendment does not codify any one particular procedure, but requires that in order for agencies to be able to promulgate regulations they need to have in place some type of procedure for assessing impacts on private property with the goal of minimizing such where possible.

In the most recent review of the private property rights amendment which I am sponsoring, the Justice Department had this to say:

This legislation * * * will enhance respect for constitutionally protected rights of individuals and private property, reduce the fiscal burden on all taxpayers from unnecessary takings, and at the same time effectively advance the public interest.

The genius of our system, in this bicentennial of the Bill of Rights, is that it remains capable of doing all of this simultaneously.

Mr. President, I ask unanimous consent to have printed in the RECORD copies of the Justice Department's communication on this legislation as well as a letter from the Vice President noting the administration's strong support for the initiative. And I ask to insert a list of the 64 organizations that have endorsed this measure. The list covers a wide range of farm and small business, real estate, advertising, civil rights, and environmental organizations who recognize the absolute necessity of a strong institution of private property in this country.

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

THE VICE PRESIDENT,
Washington, March 21, 1991.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am writing to assure you that we welcome your important efforts to protect private property rights. The Administration supports your legislative initiative in The Private Property Rights Act to protect private property owners from unintentional government intervention, and to encourage the Federal agencies to avoid unnecessary expenditures.

Proper management of Federal regulatory programs and effective program implementation require thoughtful analysis before action is taken. Executive Order No. 12630 requires a Federal agency to ask itself, before it acts, whether a proposed government regulatory policy or action would "take" individual rights in property and trigger the Constitution's obligation to pay just compensation. The legislation which you, Sen. Boren, and others are sponsoring would strengthen the management of Federal programs to prevent inadvertent Federal encroachment on private property.

Recent judicial decisions finding that the government has taken property have resulted in financial judgment obligations in excess of $120 million for "regulatory takings." As the courts focus increasingly on the consequences of Federal regulation on private property rights, these constitutionally required Federal payments and the consequent burden on the taxpayer are likely to increase. Financial responsibility argues for evaluating the risks of these costs before, rather than after, the obligation occurs.

Your bill, S. 50, is vitally important both to improve Federal management, and to reduce government liability. The Administration looks forward to working with you to secure prompt passage of this critical legislation.

Sincerely,

DAN QUAYLE.

U.S. DEPARTMENT OF JUSTICE, ENVIRONMENT AND NATURAL RESOURCES DIVISION,

Washington, DC, April 30, 1991.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC

DEAR SENATOR SYMMS: I appreciate the opportunity to address your renewed efforts to secure passage of legislation relating to the protection of private property and Executive Order 12630. Commenting on your proposed amendment to S. 2830 last term, the Administration's October 1, 1990 letter expressed firm support and outlined two refinements—on expanding the agencies included within the scope of the legislation and the other detailing the nature of the remedy itself. I have enclosed a copy of the October 1, letter with this correspondence.

Executive Order 12630 directs agencies to consider the implications of their actions before taking them and to look carefully at alternative actions to avoid *unnecessary* infringements to individual rights to private property. This analysis is designed to introduce into agency decisionmaking the broader government-wide concerns that might otherwise be overlooked. EO 12630 does not negate or supersede an agency's statutory responsibilities.

S. 50 embraces the suggestions which we made in 1990 and we are pleased to support it strongly.

In this letter, I will focus on the changes incorporated in this term's bill. First is the matter of scope. By its terms, S. 50 would apply to: all executive branch agencies which engaged in activity with the potential for taking private property, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the Executive Branch of the United States Government.

This effort addresses our suggestion that the reach of the legislation be expanded to all executive branch agencies.

As we outlined in our October letter, a number of recent judicial decisions, holding that "regulatory" takings occurred, involved differing programs administered by several agencies. *See, e.g., United Nuclear Corporation* v. *United States*, 912 F.2d 1423 (Fed. Cir. 1990) (cancellation of leases constitutes a taking); *Whitney Benefits, Inc.* v. *United States*, No. 90-5058 (Fed. Cir. Feb. 26, 1991) (prohibition of surface mining in alluvial valley floor creates compensable taking); *Loveladies Harbor, Inc.* v. *United States*, 21 Cl. Ct. 153 (1990) (denial of 33 U.S.C. §1344 permit found to be a taking); and, *Florida Rock Industries* v. *United States*, 21 Cl. Ct. 161 (1990) (denial of 33 U.S.C. §1344 permit found to be a taking).

As you are aware, since the October letter the United States Court of Appeals for the Federal Circuit has affirmed the lower court holding of a taking in *Whitney Benefits*. Further, since that time, the Circuit has found a taking in *Yancey* v. *United States*, 915 F.2d 1534 (Fed. Cir. 1990) (avian flu quarantine took uncontaminated turkey flock). Again, it is noteworthy that the monetary judgments against the United States in those cases total in excess of $120 million dollars.[1] These rulings and the spectrum of programs which they reach confirm the prudence of extending the bill to all executive branch agencies.

We suggest one refinement of S. 50 that would ensure its intended scope. Section 2(1) of the bill limits its scope to agencies "which engage in activity with the potential for taking private property." However, whether the activity has a potential for taking private property is the precise question which your bill seeks to ensure is answered. Accordingly, we would suggest deletion of the quoted language.

The second comment relates to judicial review in Section 4. That section now makes clear that the bill does not expressly provide for judicial review of either the procedures governing takings assessments or the assessments themselves. Neither the applicable procedures under the Order, nor its implementing guidelines, nor the substance of the Attorney General's decision to certify such procedures would be subject to review. Rather, review would be limited to "whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures." Section 4(a).

We understand this review to extend only to whether the Attorney General has either issued supplemental guidelines for an agency or determined that the agency has elected to comply with the government-wide guidelines. This review will only occur in the forum otherwise having review of the substantive decision itself (*i.e.*, the promulgation of regulations), take place simultaneously with the review of the regulations, and occur in strict accordance with the otherwise relevant statutory review provisions in order not to cause additional undue delay.

Judicial review of the procedural validity of the agency's taking implication assessment should have no effect whatsoever on a subsequent action in the Claims Court alleging that a specific agency action resulted in a taking. This provision in Section 4(a) is specifically designed to preclude additional, duplicative litigation. Of course, notwithstanding Section 6 of the Executive Order, the individual takings analysis or other documents developed by a department or agency pursuant to applicable guidelines would be part of the administrative record and would, in accordance with generally applicable principles of administrative review, be considered by a reviewing court in deciding whether agency action complies with the requirements of other applicable statutes, including the Administrative Procedure Act. Thus, for example, if an agency decides to alter a regulation based upon a takings analysis, the record must support that decision.

In sum, the changes you have incorporated into S. 50 directly respond to suggestions raised in our October letter and we are pleased to reaffirm our support for your efforts. By recognizing the need to consider the effect of regulatory actions on private property, and the possibility that such actions may effect a taking, S. 50 ensures that agencies will attempt, in carrying out their statutory functions, to prevent unnecessary takings. S. 50 will enhance respect for the constitutionally protected rights of individuals in private property, reduce the fiscal burden on all taxpayers from unnecessary takings, and, at the same time, effectively advance the public interest. The genius of our system, in this Bicentennial of the Bill of Rights, is that it remains capable of doing all of this simultaneously. We look forward to working with you toward achieving these goals.

Sincerely,

RICHARD B. STEWART,
Assistant Attorney General.

[1] Our discussion of these decisions should in no way be construed as a change in the Department's legal position in each case.

THE FOLLOWING ORGANIZATIONS SUPPORT THE PRIVATE PROPERTY RIGHTS ACT

Alta California Alliance.
American Agriculture Movement.
American Agri-Women.
American Farm Bureau Federation.
American Forest Council.
American Forest Resource Alliance.
American Hotel/Motel Association.
American Legislative Exchange Council.
American Mining Congress.
American Paper Institute.
American Sheep Industry Association.
Blue Ribbon Coalition.
Building Owners and Managers Assoc. International.
Center for Individual Rights.
Citizens for the Environment Action Fund.
Citizens for Property Rights, Inc.
Citizens for a Sound Economy.
Coastal Georgia Regional Development Center.
Competitive Enterprise Institute.
Eight-Sheet Outdoor Advertising, Inc.
Enviromental Conservation Organization.
Fairness to Land Owners Committee.
The Fertilizer Institute.
Georgia Tidewater Conservation Association.
Greater Yellowstone Conservation Districts.
Institute of Outdoor Advertising.
International Council of Shopping Centers.
Land Improvement Contractors Association.
Landowners Association of North Dakota.
Louisiana Home Builders Association.
Montana Public Lands Council.
National 4-F Foundation.
National Apartment Association.
National Association of Home Builders.
National Association of Industrial and Office Parks.
National Association of Realtors.
Nat'l Assoc. of Reversionary Prop. Owners.
National Campground Owners Association.
National Cattlemen's Association.
National Caves Association.
National Electric Sign Association.
National Family Farm Coalition.
National Farmers Organization.
National Farmers Union.
National Federation of Independent Business.
National Forest Products Association.
National Grange.
National Hardwood Lumber Association.
National Inholders Association.
National Manufactured Housing Federation.
National Milk Producers Association.
National Multi-Housing Council.
National Realty Committee.
National Water Resources Association.
National Wilderness Institute.
Oakland Citizens for Justice.
Oklahoma Farmers Union.
Oregonians in Action.
Outdoor Advertising Assoc. of America.
Pacific Rim Trade Association.
Pennsylvania Land Owners Association.
Riverside and Landowners Protection Coalition.
S.T.O.P. of Indiana.
U.S. Chamber of Commerce.
Washington Citizens for World Trade.
Washington Property Owners Association.

Mr. SYMMS. Mr. President, I note that S. 50, the legislation which is identical to the text of this amendment, is sponsored by 41 Members of the Senate. I encourage all other Senators to join us.

Mr. BOREN addressed the Chair.

Mr. SYMMS. Excuse me 1 minute.

I note Senator GORTON is here. If I might ask, would the Senator's schedule permit him to withhold for a few more minutes? Senator BOREN is trying to make a brief speech.

Mr. GORTON. Certainly.

Mr. GLENN. Mr. President, what is the order here? I have, too, another meeting I was supposed to have been at 20 minutes ago.

The PRESIDING OFFICER. There is no order. The Senator from Oklahoma is recognized.

Mr. GLENN. Mr. President, I have been waiting for some time also, and I am not prepared to take any more time than Senator BOREN.

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

Mr. BOREN. Mr. President, I will be very brief, indeed. I am proud to cosponsor this amendment with the Senator from Idaho.

This is an amendment that has a broad bipartisan support and support from a cross-section of many groups across the country. The amendment is very straightforward. It says that, from the date of enactment, no regulation shall take effect until the issuing agency has been certified by the Department of Justice that it has the procedure in place to assess the potential for the taking of property as a result of these regulations, with the goal toward minimizing such taking of property, diminishing of property rights, taking of land outright.

There are over $1 billion in outstanding claims against the Federal Government right now that involve the taking away of property rights, taking away of property. So this bill makes common sense.

Why should these agencies not have to consider whether their regulations will result in the taking of property? Otherwise, agencies could blindly and unintentionally run a land acquisition program, a very costly land and property acquisition program, and pay for it through the U.S. Court of Claims budget, rather than having policy decisions made by the Congress, administration, and other elected officials as to the basis of what lands and properties need to be taken by the Federal Government.

That is exactly what has been happening; unintentionally, the impact of regulations has resulted in the taking of property that has cost the taxpayers a lot of money. It is tied up in courts with litigation. There are over $1 billion in claims right now, because inadequate attention was paid from the beginning as to the impact these regulations might have on the taking of property.

So I think it makes sense. Even if the amendment is enacted, there will continue to be, of course, some taking of property. The fifth amendment concerns will have been explicitly evaluated by the agency and, hopefully, this amendment will result in more moderate regulation, so that fewer citizens will have to sue the Federal Government in order to protect their rights.

It is very simple and straightforward. I understand it is supported by the administration, as the Senator has indicated; EPA, USDA, the Corps of Engineers, and the Interior Department stated, for example, it will not add an additional paperwork burden.

So I simply say that I am pleased to join with Senator SYMMS in sponsoring this amendment. I think it is a sensible step for us to take, and it should result in a better decisionmaking process in which we can determine how much land, how much property, will be taken by the Federal Government, and whether we can afford those takings, and look at it as a matter of policy, rather than having it done through the back door, unintentional sometimes, to the issuance of regulations that cause citizens to have a cause of action in the Court of Claims.

I thank my colleagues, and I hope the Senate will adopt this amendment.

Mr. GLENN. Mr. President, I rise to express my opposition to consideration of the Private Property Rights Act, which has been offered by Senator SYMMS as an amendment to S. 1204, the Surface Transportation Efficiency Act.

Mr. President, I know that, as the Senator said, there are 41 cosponsors of this, which was a separate bill, S. 50. That is fine. The problem today is that we were not aware until late yesterday that this was going to be brought up, not in the context of a freestanding piece of legislation, but as an amendment on this Surface Transportation Efficiency Act, because there are implications of this that I think we need to look into.

I am not against looking into them and considering this, but I think to vote it today would be getting ahead of where we ought to be.

Mr. President, I do not take second place to anybody in my concern about private property and the protection of private property rights. I agree also, completely, that there are areas we need to look into that need legislation, and need it badly, to ensure that some of our regulations, such as some of the wetlands legislation, is not being misused. I think we need to consider things like that.

However, I also believe that this amendment furthers the private property and protection of private property rights only at an unacceptable cost to an important and very widely supported congressional mandate in the environment, public health, and in the safety realms.

It compromises the basic principles, as I see it, of fairness and accountability that are central to the integrity of our administrative decisionmaking process.

As I have informed my esteemed colleague and the floor manager of S. 1204, Senator MOYNIHAN, in a letter this morning, I oppose this amendment for two basic reasons:

First, I am opposed to the proposal just as a matter of policy. The bill is being portrayed as a simple, straightforward move to protect private property rights and ensure compliance with an existing Executive order. The Private Property Rights Act involves giving congressional approval to a regulatory review scheme that may have very significant negative consequences for the implementation of things Congress passed here—congressionally mandated policies.

The second reason for opposition to this amendment is that today's debate will not give the proposal the attention it deserves. I hope the people listening in their offices realize that. I hope they listen to the implications this particular piece of legislation has.

Mr. SYMMS. Will the Senator yield for a clarification?

Mr. GLENN. After I finish my statement, I will be glad to yield.

This proposal came to my attention last year as a proposed amendment to the farm bill, and it was defeated at that time.

Senator LEAHY, last year in debate on this, said that it was a lawyers-get-rich bill in a long statement in the CONGRESSIONAL RECORD of July 27, 1990, a little less than a year ago, on page S10914, in which he took very strong exception to the proposals on behalf of the farm interests in the country.

Mr. President, in January of this year, this bill was introduced as S. 50 and referred to the Committee on Governmental Affairs, which I chair.

The proposal has not yet been the subject of a hearing in the committee, and I understand the matter has not been set down for a hearing in the subcommittee to which S. 50 was assigned within the committee. I understand that was a subject of some controversy.

Let me say that whatever that controversy was with regard to getting a hearing, let me clearly state that, as chairman of the Governmental Affairs Committee, I will certainly commit to hold a hearing on this bill so that we bring out all aspects of it.

It is at such a hearing that the requisite record will be established to bring out all the arguments for or against the need for this legislative proposal, and all the ways it can be used to further good government, and all the ways it can be used to thwart good government, if you will. For the reason of not having a hearing record, I oppose consideration of this amendment at this time.

In case there are any doubts as to my position, I want to say a few things about the substance of the proposed amendment. I am opposed to the Private Property Rights Act. It gives a

congressional stamp of approval to Executive Order No. 12630, which was a Reagan administration Executive order that could, if misused for quite other reasons than the specific requirements of law, be the mechanism to frustrate environmental protection, health and safety regulations, and other Federal programs.

In simplest terms, Executive Order 12630 requires agencies to consider the constitutional takings implications of their actions; that is, whether a regulation or other action would limit property use so severely as to require compensation. I agree with that as a goal. That is a commendable goal. But this legislation would permit a process to be set up that can be rather drastically misused.

A closer reading of the order conveys a much more troubling message. Charles Fried, who was Solicitor General from 1985 through 1989, wrote a book recently that spelled out this concern quite clearly. The book is called "Order and Law: Arguing the Reagan Revolution—A Firsthand Account." In that book, he wrote as follows:

* * * Attorney General Meese and his young advisers—many drawn from the ranks of the then fledgling Federalist Societies and often devotees of the extreme Libertarian views of Chicago law professor Richard Epstein—had a specific, aggressive, and, it seemed to me, quite radical project in mind; to use the takings clause of the fifth amendment as a severe brake upon Federal and State regulation of business and property. The grant plan was to make government pay compensation as for a taking of property every time its regulations impinged too severely on a property right—limiting the possible uses for a parcel of land or restricting or tying up a business in regulatory red tape. If the Government labored under so severe an obligation, there would be, to say the least, much less regulation.

Mr. President, his concerns are well founded because, obviously, if you had a situation like that, whether Congress had approved, the President signed into law, or whatever, a particular piece of legislation, it would mean that under this kind of legislation and with this requirement for a Department of Justice approval on all of these different things, you are talking, in effect, about getting into a whole different area that can be used to thwart existing law that this Congress has passed, the President has signed, but a subsequent administration might not necessarily agree with.

In addition to these origins, Executive Order 12630 is based on a skewed reading of Supreme Court decisions and, I believe, overstates the taking danger from agency regulatory decisions. You can see a memorandum from the American Law Division, Congressional Research Service, of December 19, 1988. For example, the order states that before regulating property use for the protection of public health and safety, an agency must show that its action will "substantially advance" health and safety. The Supreme Court, quite to the contrary, restricted its "substantially advance" taking test to land-use actions, not to health and safety programs at all. So we are already branching out way beyond what anybody thought was the purpose and what something I think that all the environmentalists, all health and safety people interested in that kind of legislation should really be interested in looking at here. Indeed, as the Congressional Research Service has pointed out, Government actions to protect health and safety are the least likely to be held takings.

I am certainly in favor of instituting financial controls so that every Federal agency can assess and plan for potential liabilities that may affect or flow from its decisions. This is one goal of the Chief Financial Officers Act of 1990, which we passed last year and enacted into law after 6 years of work by the Committee on Government Affairs. The CFO Act is now in its first stages of implementation. I would say the amount of attention the press has given to this potentially far-reaching piece of legislation has been that we just have not seen much about it. It is not a B-2. It does not involve Social Security. It is not a buzzword type thing. It is the type of thing, if we are going to get control and efficiency in Government financial circles, how we are going to do that is how important the CFO Act is now in its first stages of implementation. I am confident that within a short time we will see that Federal agencies have the financial management systems required to account for their activities.

However, while it is one thing to approach financial management through a comprehensive system of accounting, financial statement, and internal control requirements, it is quite another to suggest that that is the purpose of either S. 50 or of Executive order 12630. Quite the contrary, the clear purpose of both is to create a regulatory review scheme that can be used to frustrate Federal agency implementation of congressionally mandated protections of the environment, as well as the health and safety of the American public. It may not be its intent, but it certainly can be used, and there is nothing in it that prevents it from being used for that.

The order's antiregulatory purpose is seen in the way it singles out agency actions to protect public health and safety for special restrictions. This is not only contrary to congressional mandates for the protection of public health and safety, but also is contrary to the fact that health and safety programs are, as mentioned, the least likely to bring about any takings liability. They just do not get into that in the normal course of events.

Additionally, the antienvironmental purpose of S. 50 is seen in its coverage, as originally drafted now, which was limited to the four Federal agencies with primary environmental responsibilities: Interior, Agriculture, Army, and EPA. The broader coverage of S. 50, as we see it today, came about because of Department of Justice insistence.

The regulatory review arrangement provided by the order also troubles me. In additon to the guidance that is to be used by the Department of Justice, the order states that agencies must justify the "takings implications" of their actions in their regulatory review submissions to the Office of Management and Budget. Thus, in endorsing this legislation, Congress would also be endorsing OMB regulatory review all over again.

The Committee on Governmental Affairs and other committees of Congress have documented the growth of OMB influence on agency rulemaking and the negative impact that OMB has had on many agency decisions. I think it would be a grave mistake for the Senate to take what amounts to summary action on a legislative proposal having such consequences.

Why do we even need S. 50? the Justice Department tells us that the executive branch is solidly behind the Executive order. If this is so, then why give the Attorney General unbridled authority to block regulations across agencies and to compel compliance that we are told will come about anyway? Furthermore, I do not believe that the cost of Federal takings has reached such a level that further action by Congress, as in S. 50, is warranted. The only truly large takings judgment against the United States, $180 million in the Whitney Benefits case, would not have been prevented by S. 50 because it involved a taking action caused by congressional enactment, not by agency action at all.

So it should be clear that I do not believe that either S. 50 or Executive order 12630 represents good public policy.

Mr. President, I state one more time I am for private property, I am for protection of private property, I am for private property rights, but I do not believe that S. 50 delivers on its supposed simple promise to protect those rights. Even more, it should be very, very clear that I oppose legislating in this area through an unexamined floor amendment, one that has not even been through the hearing process that might be quite product reaching, to a piece of legislation such as the Surface Transportation Efficiency Act.

Again, S. 50 is not so much a private property bill as it is a regulatory process bill. It requires and deserves consideration in the proper context, which is the jurisdiction of the committee on Governmental Affairs, and where I will be happy to hold a hearing on it if the

floor sponsors of this bill would so agree.

Let me say that while I understand the matter has not been set down for a hearing, I assure you that I will commit the committee to hold hearings to air the issues involved in S. 50, and we might be able to make it something that we can all accept and enthusiastically support. But, in the meantime, I maintain my opposition to the Private Property Rights Act as an amendment to S. 1204.

Incidentally, in introducing S. 50, Senator SYMMS, I believe, made much of a man by the name of John Pozsgai, who he suggested was the victim of callous and heavy-handed Federal regulators who interfered with his right to use his property.

For the record, I ask unanimous consent for the printing in the RECORD of documents that indicate that Mr. Pozsgai's case never involved any takings claim, as they are known.

It also does not involve overzealous Federal action. The accompanying article from the July 1990 issue of Audubon magazine and the accompanying court memorandum denying a reduction or correction of sentence in Mr. Pozsgai's case present a set of facts far different from those made by the proponents of S. 50.

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

[In the U.S. District Court for the Eastern District of Pennsylvania, Criminal Action No. 88-00450-01]

UNITED STATES OF AMERICA *v.* JOHN POZSGAI

MEMORANDUM

KATZ, J.

Defendant seeks a reduction or correction of sentence.

Defendant owned and operated a truck repair business in Morrisville, Pennsylvania. Defendant decided to buy an adjoining 14-acre tract in order to expand his business.

While defendant was negotiating to purchase the tract, he learned from engineering consultants that the tract met the criteria established by the Corps of Engineers for protected "wetlands". Shortly after he began purchasing the tract, however, defendant began depositing fill material onto the tract without obtaining approval of the Corps of Engineers. In April 1987, a Corps of Engineers inspector visited defendant at the site and confirmed that the tract contained wetlands protected under federal law. As a result, the inspector warned defendant that federal law prohibited him from continuing to deposit fill onto the land without first obtaining the necessary permits and authorization.

Despite repeated warnings, defendant continued to have truckloads of fill material—mainly construction and excavation debris—dumped onto the site. In September 1987, the Corps of Engineers notified defendant by letter that his unauthorized filling was in violation of the Clean Water Act and directed him to cease and desist. Defendant ignored the notice and continued to deposit fill onto the site. After continued monitoring the United States Environmental Protection Agency notified defendant in early December 1987 that his "filling without a permit is a violation of the Clean Water Act" that could subject him to penal sanctions. After receiving the notice, defendant continued filling the site.

As a result, the Corps of Engineers issued defendant a second notice of violation on December 17. That notice reiterated the earlier warnings.

The notice again advised defendant to stop his unlawful filling and instructed him to apply for a permit if he wished to resume his activities.

The filling process continued in spite of the warnings. On August 24, 1988, the United States Attorney filed a civil action against defendant and obtained a temporary restraining order directing defendant immediately to stop discharging fill material onto the wetlands site. Over the next several weeks, however, truckloads of fill material continued to be dumped onto the site.

Stating that "[i]t's hard to visualize a more stubborn violator of the laws that were designed to protect the environment," the court sentenced defendant to a three-year term of imprisonment on Counts 1-14 (the pre-Guidelines counts), a concurrent term of 27 months' imprisonment on Counts 16-41 (the counts governed by the Guidelines), a five-year term of probation on Count 15, and a one-year term of supervised release on the Guidelines counts. The court also ordered defendant to pay a fine of $5,000 on each count, for a total of $200,000, and as a condition of probation, the court ordered defendant to comply with restoration plan for the wetlands site.

The fine imposed on each count was at the bottom of the range prescribed by Congress. Under Section 309(c)(2) of the Clean Water Act, 33 U.S.C. 1319(c)(2), any person found guilty of an offense "shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both." Defendant stood convicted of 40 separate violations, and thus faced a fine of up to $2,000,000.

Granted that the fine imposed is not mandatory, the combined fine and imprisonment are necessary to deter defendant and others who might be tempted to defy the criminal laws of the United States designated to protect the environment. This defendant has shown no remorse. According to the presentence report, he owns real estate. Under this court's judgment, the fine shall be paid "as the probation department determines he is able." The five year period of probation following his release from imprisonment is necessary for his implementation of a restoration plan to correct the damage he did.[1] The effective term of imprisonment is specified by the Sentencing Commission Guidelines which are being on this court. The jury has spoken. This court has ruled. The Court of Appeals has ruled. The Supreme Court denied certiorari. The sentence stands.

ORDER

AND NOW, this 5th day of March, 1991, upon consideration of defendant's Motor For Reduction Or Correction Of Sentence, it is hereby ORDERED that the said Motion is DENIED.

By the Court:
MARVIN KATZ, Jr.

[1]Nor was the damage abstract. A neighboring landowner testified at trial to damage to his building when the rains came.

[From Audubon magazine, July 1990]

THE FABLE OF POZSGAI'S SWAMP—A TALE WITHOUT HEROES

(By John G. Mitchell)

Once upon a time there was a little swamp in the big woods. Gum trees grew in the swamp, and skunk cabbage, and clumps of wild grasses with long brown tassles like lions' manes. Birds came to feed on seeds and insects, and raccoons and foxes left their sign in the bed of the creek that ran through the swamp on its way to the river, as creeks were accustomed to do those days, instead of disappearing forever into some underground pipe or the not-so-thin air. This was during a period in our history so long ago that no living man or woman has a memory of it. This was before the industrial revolution and interstate commerce and the Army Corps of Engineers and the Washington Legal Foundation and the Clean Water Act, Title 33, U.S. Code, Sections 1311(a) and 1319(c)(2)(a), and the Hungarian émigré John Pozsgai, who would come to live and work across from what was left of the swamp on West Bridge Street in the little town of Morrisville, Bucks County, Pennsylvania, U.S.A.

What was left of the swamp was not a great deal, for over the years commerce and industry had wrought much change in the land roundabout. There was Trenton, right across the Delaware River from Morrisville. The city had so many factories, people began to say "Trenton makes, the world takes." Folks who worked in the factories couldn't all live in Trenton; some had to settle for Morrisville. So Morrisville began to grow and grow, right up to and over the edge of the little swamp.

Meanwhile, the manner of moving manufactured goods to market was changing, too. Highways were replacing the old canals and even some of the railroads. Here came U.S. Highway 1, raised on fill and four lanes wide, divided, and straight across the lower end of what was left of the little swamp. And here was West Bridge Street across the upper end, with its two-family houses and an old dairy building that John Pozsgai would convert into a garage for the repair of tractor trailers—"You Breakum We Fixem," the mechanic's business card would say.

If you ever happen to be in the neighborhood, you can stand on West Bridge Street, with your back to Pozsgai's garage, and see how the world of commerce and industry has been closing in on what's left of the little swamp. Across the street, on the right, is a junkyard where spare parts appear to be extracted from the rusting skeletons of cars and trucks. On the left, backed up against what's left of the creek that used to run through the swamp on its way to the river, is a tire company and a row of small houses and apartments. The area is zoned for light industrial and highway commercial uses. It's no place for coons and foxes, and only marginally for the grittiest kinds of passing birds. I promise you.

Nevertheless. Whatever remains of the swamp is, in the statutory scheme of things, a wetland. And a wetland it remains ecologically as well. Whatever its scenic and spatial shortcomings, the site can still function as floodplain, water filter, and habitat for scores of small, unremarkable biological beings. In fact, what remains could safely be described as a relic island of once-typical Middle Atlantic coastal plain swamp adrift in a sea of development. Some folks call the development Bos-Wash, which is shorthand for the Boston to Washington megalopolitan corridor. And since the waters of this wetland are "of the United States" and there-

fore protected under federal law, and since regulators and prosecutors are aiming, as they say, "to send a message," and judges are armed with tough sentencing guidelines, woe unto any private individual convicted of dumping fill into such a place without a permit while stubbornly and arrogantly ignoring repeated warnings to cease and desist.

In fact, woe unto John Pozsgai. The Morrisville mechanic stands convicted of forty-one separate counts of violating the Clean Water Act and faces $202,000 in fines, three years in the federal slammer, and five years' probation. If upheld on appeal, the sentence imposed on Pozsgai would likely constitute the harshest ever for a wetlands violation anywhere in America. You Breakem We Fixem.

As any seasoned juror knows, there are two sides to every story. That is always the bad news. The good news is, you only have to believe one. Let us first hear the story from the perspective of the appellant, as distilled through my own observations, the words of the man himself, the briefs of his attorneys, and the representations of friendly media such as Cable News Network, The Wall Street Journal, and Human Events, which bills itself as "The National Conservative Weekly."

It could be said of John Pozsgai that he is a most appealing appellant. I mean Central Casting couldn't have found a player better suited to the role: Refugee from Soviet tank-torn Hungary, circa 1956; blue of eye and gray of hair, axle-grease under the fingernails, no days off from the broken trucks, the modest home next-door with his wife, Gizella, making coffee in the kitchen and Victoria, their twenty-four-year-old daughter, on the telephone with an attorney in Washington, D.C. And across the street, what used to be a little swamp in the big woods.

John Pozsgai would know nothing of swamps, only dump sites. He would look across West Bridge Street at all the junk people had been dumping for twenty years—construction rubble and auto parts and discarded tires, thousands of old tires piling up in the streambed that ran behind the establishment that traffics in new tires. (Not that anyone would accuse the tire dealer of being responsible for this dreadful situation. Besides, dumping dirty old tires into a creekbed in Morrisville, Pennsylvania, does not seem to violate the Clean Water Act quite so conveniently as dumping new fill into an old wetland.)

By and by, John Pozsgai would look across the street and see an opportunity—a place that might someday become his very own, if he could raise the money to buy it. It was a property of 14.2 acres. The absentee owner had so little interest in the land that he permitted the mechanic to cut trees there for firewood. So John Pozsgai had a dream. He dreamed he would clean up the mess of tires and junk and build a big new garage for his business over there where the sound of Fixem would not disturb his neighbors, and maybe improve the rest of the land such that a corner lot or two might be sold later on to a gas station possibly. But it wouldn't be easy. The old dump site was soggy. To fulfill the dream, John Pozsgai was going to have to truck in fill to raise the level of the land.

On June 19, 1987, Pozsgai purchased the 14.2 acres for $140,000, paying $14,000 down and mortgaging his house and garage to cover the balance. He had already started the cleanup operation; Victoria would count 7,000 tires pulled from the old creekbed. And there had been a visit or two by this man who called himself Martin Miller and said he was from the Enforcement Division of the Army Corps of Engineers. Pozsgai would recall that Miller advised him the Corps might decide a permit was needed if fill was to cover more than one acre. And that was rather curious, because when Pozsgai checked with Pennsylvania officials and the National Wetlands Inventory Map, he discovered that his property was not listed as a wetland. Such confusion!

Nevertheless. Better safe than sorry. With the help of Victoria, who holds a degree in journalism from Temple University, Pozsgai (according to one brief) "unsuccessful tried to hire several engineers over the course of several months to obtain the assistance necessary to complete the various permit applications from the federal, state, and local jurisdictions. Eventually each of the engineers admitted they could not complete the application. The first engineer contracted by Mr. Pozsgai delayed any action [on] the application for over six months before admitting that he could not complete it." Such incompetence!

While all this bureaucratic obfuscation was going on. Pozsgai proceeded to cover upwards of five acres of his property with "clean fill," consisting of "topsoil, rubble, earth, and similar inert materials." In December 1987 the Corps advised him to stop. Either stop, or obtain a Water Quality Certificate. The certificate would somehow enable the Corps to determine if he even needed a permit to proceed. Months passed, this jurisdictional authority telling him one thing, that authority telling him another. Unbeknowst to the mechanic, the Environmental Protection Agency had come to West Bridge Street with a video surveillance camera and had installed it in the upstairs window of a neighbor's house in order to film dumptrucks bringing fill to the site. Moreover, EPA had gone to court, filed a civil suit against Pozsgai, and obtained a temporary order restraining him from any further activity at the site. This was in August 1988. To comply with the restraining order, the mechanic placed barrel blockades around his property, barring trucks from entry. But alas, one day while he was in Harrisburg attending to one of those incomplete permit applications, some truckers arrived at the site, rolled the barrels aside, and proceeded to dump their loads—right under the lens of the hidden EPA camera.

For this, and for certain preceding activities, a federal grand jury sitting in Philadelphia indicted John Pozsgai on forty-one criminal counts of knowingly discharging or causing to be discharged, and aiding and abetting the discharge of, fill material into the waters of the United States. This was in September 1988. At high noon one day shortly thereafter, while he was drinking coffee in the kitchen of his home, five peace officers, including three special EPA agents, knocked on John Pozsgai's door, informed him that he was under arrest, and took him away to Philadelphia in handcuffs.

"I think," the mechanic said to me a year and a half later, in his hearty h-dropping Hungarian accent, in the house where he was seized (Victoria having arranged his release on bail after the arraignment, appeals keeping him from jail ever since)—"I think the guy who shot Kennedy got treated better than me." Let us forgive John Pozsgai this one exaggeration, if only in view of what did happen to the guy who shot Kennedy.

The government's version of the tale is woefully lacking in narrative panache, partly because that is the nature of government storytelling, and partly because there are rules barring government officials from discussing litigious matters, especially when those matters are being appealed to the U.S. Supreme Court. Besides, some of Uncle Sam's players had already been treated rather critically by the Press, which, however biased or impartial, seemed generally to concur that in the case of the *United States of America* v. *John Pozsgai*, the United States of America was full of beans. One headline, quoting Pozsgai's attorney, went so far as to refer to the Environmental Protection Agency and jackboots in the same six-column, 36-point Bodoni breath.

Be that as it may, I did manage to obtain a copy of the government's trial brief. It informs us that on or about April 28, 1987, one Martin Miller of the U.S. Corps of Army Engineers received information concerning the unlawful filling of wetlands at a certain location on West Bridge Street in Morrisville, Pennsylvania. And that Inspector Miller went to the site and observed that various earth and building debris had been placed onto property which he determined to be wetlands. And that on several occasions shortly thereafter, Inspector Miller advised John Pozsgai that he could not place or push any more fill onto the wetlands until he had obtained the requisite permit. The government further contends that on August 17, 1987, Inspector Miller returned to the site and observed that a large amount of additional fill had been placed on the property since his last visit; that on September 3rd, the Corps issued to John Pozsgai a Cease and Desist letter; that, throughout the remainder of 1987, the mechanic ignored that letter even as continued violations were observed by neighbors, township officials, and "various companies who were granted permission by Pozsgai to dump fill onto the site."

There is a reference to December 2, 1987. The U.S. Environmental Protection Agency that day issued a written notice specifically advising Pozsgai of the penalties that might be imposed if he did not cease and desist. Pozsgai did not cease and desist. On December 17th, there was another written notice, this one from the Corps of Engineers. The Corps noted continuing violations of the Clean Water Act and warned Pozsgai that if he did not obtain the necessary permit, he would be required to remove all fill material from the site. There was no response from Pozsgai. He did not obtain any permit. He did not remove any fill. The violations continued. Now it was August 1988. The two versions of this tale begin to coincide: temporary restraining order, video surveillance, indictment, arrest. Trial by jury began the day after Christmas 1988 in the U.S. District Court for the Eastern District of Pennsylvania, in Philadelphia, and ended the day before New Year's Eve. The defendant was found guilty on all counts, as charged. Sentencing was set for July 13, 1989. Of John Pozsgai, U.S. District Judge Marvin Katz declared that it would be "hard to visualize a more stubborn violator of the laws that were designed to protect the environment," and promptly imposed sentence under the Clean Water Act.

I have left a few loose threads for the bottom of this letter because, spliced together, they may help to explain not only why the piece is wanting for heroes, but also why its telling was worth the trouble in the first place. This, you might say, is my version.

The jury has rendered its verdict on John Pozsgai, and who am I to dispute its finding of guilt. The major facts of the case, upheld on the first round of appeal by three U.S. Court of Appeals judges, clearly indicate

that John Pozsgai stubbornly ignored repeated warnings that his unpermitted filling activities were in violation of the law. Under the law, he is a convicted environmental criminal, and that is enough in my book to rule him out as any sort of hero. It does not, however, rule him out as an unwitting pawn on a chessboard of political agendas. Consider how the man has been used.

Consider the Washington Legal Foundation of Washington, D.C. The Foundation entered the fray after Pozsgai's local attorneys bowed out—the first after just one court appearance, the second confessing his own inexperience after losing the jury trial. At this point Victoria Pozsgai arranged for the Foundation to take over her father's appeal, pro bono, and the Foundation was delighted to oblige.

The Washington Legal Foundation describes itself as "the most productive and effective pro-free enterprise public interest law firm in the country." In fact, it is a button-down clone of the Mountain States Legal Foundation, where James Gaius Watt practiced environmental law bashing before his appointment as Ronald Reagan's first Secretary of the Interior. The Washington firm can also boast of friends in high places, and does, in the 1988 edition of its annual report. It notes that several allies, "each a long-standing member of WLF's National Board of Advisors, have attained prominent positions in the new administration," and goes on to name Vice-President Dan Quayle and White House Chief of Staff John Sununu. Among its "clients" in 1988 were U.S. Senators Orrin Hatch and Jesse Helms. "Courtroom opponents" that WLF "battled" were Common Cause, the American Civil Liberties Union, Governor Michael Dukakis, the Environmental Protection Agency, Friends of the Earth, Senator Edward Kennedy, the NAACP, Women's Legal Defense Fund, Izvestia, War Resisters League, the Palestine Liberation Organization, and National Audubon Society, among other groups with "anti-business views and extremist social goals." Among its many monographs, legal backgrounders, and working papers were "Reforming the Clean Air Act" (by an executive of the American Petroleum Institute), "The Greening of America's Defenses" ("how various environmentalist groups with an anti-defense bias have sought to block deployment of the MX missile"), "Protecting the Civil Liberties of Busines," and "Whistleblowers in the Nuclear Industry: Giving Employers Fair Treatment."

Paul D. Kamenar is executive legal director of the Washington Legal Foundation. He is also the attorney handling John Pozsgai's appeal to the U.S. Supreme Court. From all the institutions on the Foundation's list of free-enterprise obstructionists, Kamenar appears to have selected the Environmental Protection Agency as his Enemy Number One. Writing of the plight of his Morrisville client in Human Events and on the op-ed page of The Washington Post, Kamenar has accused the Environmental Protection Agency of "strong-arm tactics against small landowners and businessmen," and warns that it is in cahoots with the Justice Department "to use the Pozsgai case as a precedent to start imprisoning corporate officers."

Not that the Pozsgai case is the only one in his dossier of EPA excesses. If you are a reporter, give Kamenar half a chance and he will press on you newsclips, briefs, and video tape galore, all documenting EPA's relentless nationwide persecution of other decent law-abiding citizens whose only desire is to improve their properties with loads of clean fill. Thus, one might begin to wonder just how the priorities fall into place upon the Washington Legal Foundation-Kamenar agenda. Is bashing EPA simply a means to the end of vindicating Pozsgai and other accused land-fillers around the country? Or is the well-publicized predicament of Pozsgai et al. a means to the end of compromising the credibility of EPA, not to mention the effectiveness of the Clean Water Act?

Of course, here we must note that Pozsgai did not become worthy of notoriety, beyond the local media, until after his sentence was imposed by Judge Katz in Philadelphia. That is to say, jackboots did not seem to fit EPA until Pozsgai faced three years in prison and a fine of more than $200,000. (Extrapolating from the mechanic's negative net worth and modest annual earnings, a Cable News Network researcher figured that, in Fortune 500 dollars, the corporate equivalent of Pozsgai's fine would be about $62 billion, or twice the net worth of Exxon. Unfortunately, CNN did not have the inclination to carry the analogy one step further by noting that no polluting corporation, including Exxon, has ever been fined more than a scant fraction of that sum, however greater than Pozsgai's transgression the scope and severity of the corporate offense.)

But wait a minute. Was the Environmental Protection Agency directly involved in the sentencing of John Pozgai? Did Administrator William Reilly or any of his minions go to Judge Katz in Philadelphia and say to him, "Judge, throw the book at this guy, will you?" Of course not. Throwing the book at Pozgai was the U.S. Justice Department's idea. In a sentencing memorandum dated April 3, 1989, Michael Baylson, the U.S. Attorney for the Eastern District of Pennsylvania, and Assistant U.S. Attorney Seth Weber, the government's principal trial lawyer in the case, deplored "the systematic destruction of the nation's wetlands" and invoked the intent of Congress to make the statutory punishment fit the environmental crime. According to Baylson and Weber, the statutory punishment for John Pozgai could be stretched out to $10 million in fines and 120 years in jail, if only the judge would be good enough to apply sentencing guidelines to each of forty-one counts separately and cumulatively, rather than grouping them to determine the appropriate sentence. As it turned out, Judge Katz's sentence of three years (twenty-seven months before parole may be considered) and $202,000 was but a drop in the bucket compared to what the gentlemen from Justice had requested. Yet it was tough enough, relative to the gravity of the offense and the record of sentences for similar crimes in other jurisdictions, to move Paul Kamenar of the Washington Legal Foundation to argue, on appeal, that this particular sentence is an abuse of judicial discretion and a violation of the Eighth Amendment's guarantee against cruel and unusual punishment. The last word on all of this—or no word at all, and the sentence to be served—is up to the U.S. Supreme Court.

Once upon a time in Washington, D.C.—my version continues—there was a little man in a big house. And the house was white. The man was not physically little, nor was the measure of his influence small, for he happened to be a retired govenor and his title was Chief of Staff. The chief's stature was diminished only by the presence of that other fellow in the White House. The other fellow's title was President of the United States. We are referring, of course, to the chiefdom of John H. Sununu, in this period from our history known as the Presidency of George Bush.

When it comes to federal wetlands, there is no getting around John H. Sununu, is there? I mean that's what I've been reading in The Washington Post and The New York Times almost since the new administration announced that it would countenance no net loss of wetlands. Of course brooking no net loss of wetlands was not John Sununu's idea, was it? That kind of talk must have come from Bill Reilly over at EPA. If what I read in the newspapers is even half-true, Sununu is the sort of fellow who might well believe that when you've seen one swamp, you've seen 'em all. This is the same Sununu who is said by the media to have thwarted Bill Reilly's policy recommendations at almost every opportunity. The same who repeatedly refers to his critics as "environmental extremists." The same who ripped the guts out of an EPA-Corps of Engineers wetlands protection agreement by ordering the document modified to reflect the concerns of developers, oil companies, and others who felt it would unduly restrict their pursuit of free enterprise. The same Sununu who is listed in the 1988 annual report of the Washington Legal Foundation as ally and long-standing member of its National Board of Advisors. Small world, isn't it?

While we are still in Washington, let us not forget the U.S. Department of Justice, the very same that threw the book at John Pozsgai. After the Wall Street Journal lionized Pozsgai as a property rights martyr sacrificed upon the altar of environmental extremism the department's top resource lawyer, Richard B Stewart, joined federal prosecutor Michael Baylson in a letter of response. "You state," the two attorneys reminded the Journal, "that environmentalism and property rights are on a collision course. They are if one side refuses to acknowledge any limits. The same Constitution that creates property rights empowers Congress to impose limits for the benefit of all. If everyone followed Mr. Pozsgai's example . . . we would live in an anarchy, not a democracy governed by law."

This is good-sounding stuff to my ear. But at the same time it bothers me. Where do those limits begin and end? With Pozsgai? Is his the only wetlands transgression worthy of three years in jail? If America is truly losing almost half a million acres of wetlands annually, who and where are the other culprits? Pozsgai filled five acres, without a permit. What about the balance of the nation's loss of wetlands? Filled by permission? Much of it, alas, yes; but not all of if. Are there to be no hidden cameras, handcuffs, and early retirement to the federal pokey for any of the other violators who apparently refused to acknowledge limits on their property rights? But I forget. I forget that this is a Justice Department still suffering hangovers from the reign of Edwin Meese, another one of those environment bashers in the Sununu mold. I forget that this Justice Department, which now seeks to bankrupt citizen Pozsgai, is the same that, at the behest of the White House counsel, played possum on the issue of supporting stiff fines against corporate polluters.

So what are we to make of it all? Is this some kind of charade? Does the Justice Department play a willful or unwitting role in it by courting the backlash against tough wetlands enforcement? I mean, at a time when many congressmen and some judges must still believe in their heart of hearts that wetlands are wastelands and so-what's-all-the-fuss, was it really necessary to throw the whole book at Pozsgai and thereby play into the hands of those who would make a

martyr of the Morrisville mechanic? Charade, hell! Is this a conspiracy to tip wetlands protection right out of the Clean Water Act?

In Washington, I put some of these theoretical questions to John Pozsgai's pro bono defender, the conservative attorney Paul Kamenar. I was sitting in the offices of the Washington Legal Foundation, hopelessly outnumbered and surrounded, though elsewhere in the building, by individuals who would brook no shenanigans from a visiting journalist with exteremist social views. Therefore I did not invoke the name of their long-standing advisor, John Sununu. I merely posited the conspiracy theory as it might involve the Justice Department. Kamenar heard it out, listening politely and impassively to my presentation. And when at last I finished, you know what he said to me? He said: "The government's not that smart."

Fables are supposed to end with a Moral. But inasmuch as this is a fable without heros, perhaps it is also a fable without a Moral. Or perhaps it is not. Think about it.

Mr. GLENN. Mr. President, I would be happy to hold hearings on this. I am sorry that this came up as an amendment to this bill. We were not aware, as I said, until yesterday it was going to come up in this regard today. I just think it is premature to take it up this way, and it is a very, very far-reaching amendment that we are considering putting onto this bill. In its original single form, not as an amendment, it had 41 cosponsors. I do not know whether it has that many as an amendment to this bill, but I hope that some of those Senators, in looking at this, would also consider what is going to happen to health issues, safety issues, environmental issues, many of which have nothing whatsoever to do with the specific land property rights that are addressed in the statement on this bill on the floor today. I would commit to having the hearings if that is the wish. If we cannot prevail with that request, then I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I respond with great affirmation to the statement of the distinguished, gallant chairman, the Senator from Ohio, to say that, as manager of the bill, I very much regret that this quite extraneous issue came here. I hope that the body will accept the offer. It is obvious no one would ever have to require JOHN GLENN to state a good faith offer. If JOHN GLENN makes an offer, you can bank on it. I do not know whether that will be possible, but I would like to say to the chairman that that certainly would be my view.

If I could say to my friend from Idaho, the ever-patient Senator from Washington has been waiting to offer an amendment on behalf of his committee. I think it would require setting aside the amendment of the Senator from Idaho briefly.

So, Mr. President, I ask unanimous consent that the amendment of the Senator from Idaho be set aside for 5 minutes in order that there might be offered an amendment by the Senator from Washington.

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

AMENDMENT NO. 307

(Purpose: To add a new title II on highway safety)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. EXON, and Mr. BRYAN, proposes an amendment numbered 307.

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

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

The text of the amendment (No. 307) is printed in today's RECORD under "Amendments Submitted."

Mr. GORTON. Mr. President, as the distinguished manager of the bill said, I offer this amendment on behalf of the Senate Commerce Committee and specifically Senators HOLLINGS, DANFORTH, EXON, and BRYAN, in addition to myself. This packet includes parts or all of three bills all directly relevant to the transportation debate in which we are engaged at the present time.

One dealing with drug and alcohol testing for transportation employees has already been passed unanimously by this Senate as a separate bill. The second is the reauthorization of the National Highway Traffic Safety Administration reported by the Commerce Committee which deals with a wide range of safety-related subjects, building on the success we have had in beginning to reduce at least the number of deaths by drunk driving, and motor vehicle safety in the field of small trucks, side protection and the like; and the Motor Carrier Safety Assistance Program reauthorization, also a program presently in law which funds more than 1½ million safety inspections of heavy trucks and buses.

Each year 45,000 Americans are killed and another 500,000 are hospitalized because of highway crashes. The National Highway Transportation and Safety Administration [NHTSA] has the lead Federal role in reducing this death and injury toll. According to the Department of Transportation, highway crashes cost the U.S. economy $75 billion annually. Highway crashes are the leading cause of death for Americans under age 45.

I am an original cosponsor of an important measure S. 1012, which has already passed the Commerce Committee. Today, we offer the text of this bill as an amendment to S. 1204. The amendment will require a number of important actions by NHTSA that will result in far safer vehicles being driven on our Nation's highways.

This amendment will require that all newly manufactured passenger cars have full front airbags by September 1, 1995, and that all light trucks have full front airbags 2 years later. This is a realistic schedule which most manufacturers already intend to voluntarily meet. The Department of Transportation estimates that universal installation of airbags would save 8,000 lives a year.

Our amendment will also require NHTSA to complete rulemakings on passenger car side impact protection and on light truck safety requirements. It also requires that auto manufacturers return to a 5-mile-per-hour bumper standard that existed before 1982. Our committee learned that today's 2½-mile-per-hour bumpers can sustain several thousand dollars' worth of damage in only a 5-mile-per-hour crash. This is an outrageous expense for a consumer involved in what should be a very minor accident.

Additionally, our amendment will require NHTSA to examine a number of important technologies which likely will increase auto safety including antilock brakes, daytime running lights, heads-up displays, and smart car/highway systems.

Mr. President, this is an important step forward in highway safety and I urge the Senate to adopt this important measure.

Mr. President, I really want to thank both managers of the bill for their courtesy in looking this over, for their determination that it is relevant to this bill, and for their agreement to propose it at this time.

Mr. MOYNIHAN. Mr. President, I would most emphatically state that these amendments are relevant to the bill. I think it is important that the Senator from Washington has mentioned the fact that we have unanimously passed the first of these measures but we never get it into statute. This bill is going to become a law. This bill is the tractor trailer that will carry this amendment forward to its destinations, which is the statutes of the United States. That is rather a large proposition, Mr. President, but it is my way of saying that on this side of the aisle we very much accept the measure and thank the Senator from Washington for offering it.

Mr. SYMMS. There is no objection on this side.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. GORTON. I yield back the remainder of my time.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, I am pleased that this amendment includes the text of S. 1012, legislation which I introduced and which was reported by the Commerce Committee without objection. This legislation is a

comprehensive reauthorization of the National Highway Traffic Safety Administration, or NHTSA. I am especially pleased to have as cosponsors of this legislation, my Commerce Committee colleagues Senators HOLLINGS, DANFORTH, GORTON, KERRY, and MCCAIN, all of whom have distinguished records of hard work and experience in the area of highway safety. This legislation is an important and appropriate addition to S. 1012, the highway bill, in that it authorizes the expenditure of the highway trust fund moneys administered by NHTSA, and includes measures that will significantly enhance the safety of our highways.

NHTSA's responsibility can be simply stated: to save lives. Obviously, nothing could be of greater importance, or more deserving of our attention and efforts toward reauthorization.

NHTSA's primary responsibility is to improve the safety of our vehicles and our highways. Since the agency was created in 1966, progress has been made. However, about 45,000 people still are killed on our highways each year, and motor vehicle-related injuries are the leading cause of death for children over 1 year old. Motor vehicle crashes cost the United States economy $74 billion each year. There can be no doubt that NHTSA, and those of us who consider legislation in this area, still have our work cut out for us.

As everyone who works on highway safety issues is aware, the effort to reauthorize NHTSA has been strenuous, but as yet unsuccessful. The agency has been without an authorization since 1982, despite the fact that the Senate has passed three separate bills during this time. In the last Congress, in March 1989, I introduced S. 673, which was unanimously approved by the Commerce Committee, and passed by the Senate on a voice vote in August 1989. Despite the early Senate action, the bill was not enacted into law.

The authorization legislation offered today as an amendment to the highway bill includes many of the provisions contained in S. 673. These issues include requirements that NHTSA complete rulemaking to improve the safety of passenger vehicles, including additional head injury protection and rollover protection.

I am pleased to note that there are some very important issues addressed in S. 673 that do not need to be addressed in this year's legislation because the rulemakings they would have required have been completed by NHTSA. These issues include improved side impact protection for passenger cars, and passive restraints and roof crush standards for light trucks.

In addition to issues addressed in earlier legislation, this year's legislation includes rulemakings on some safety issues that have evolved since S. 673 was first drafted, including air bags and antilock brakes. As improved technology becomes available and proven, we want to insure that it is provided for all consumers, and not just those who can afford luxury cars. In particular, with respect to airbags, this legislation will require that airbags be available in all cars and light trucks on a phased-in schedule. There now is general agreement that airbags with manual seatbelts offer occupants superior protection to any other system, yet NHTSA's current rules allow manufacturers to use either automatic seatbelts or airbags. While most manufacturers are moving toward airbags on their own, this legislation will insure that the installation of airbags will not vary from model to model, but will be available to all.

Additionally, this legislation contains authorizations for NHTSA's operations and research, and its programs funded out of the Highway Trust Fund, including programs established by sections 402 and 403 of title 23, United States Code, and impaired driving prevention grants to States. Section 402 provides funds to the States through a formula based on population and highway mileage to assist in highway safety through NHTSA-approved programs. Section 403 funds research in a number of safety areas, including intelligent vehicle-highway systems.

The operation and research funding and the section 403 program adopt the administration's requests for fiscal year 1992. The operations and research funding is increased by the inflation factor recommended by the Congressional Budget Office for fiscal years 1993 and 1994. The section 403 funding is the administration's request for fiscal year 1992, and identical amounts for four additional years. Since the administration's request for 1992 is a substantial increase over prior years' funding, no increases have been authorized for later years. The section 402 funding provides the 1991 authorized amount for fiscal year 1992, and increases this amount by the Congressional Budget Office inflation factor for an additional 4 years.

This legislation also replaces the two current NHTSA-administered programs of impaired driving prevention grants—sections 408 and 410 of title 23, United States Code—with one new program. The new program is structured in a manner identical to the current programs, but eliminates the overlap between the two, retains the most effective elements of each, and adds some additional measures that have been shown to be effective to prevent impaired driving. Incentive grants are provided to States to encourage such actions as prompt suspension of drivers' licenses of impaired drivers; sobriety checkpoints; mandatory blood alcohol intoxication levels of 0.10, decreasing to 0.08 in later years, and mandatory minimum penalties for those convicted of impaired driving

I believe this legislation is comprehensive and will provide important authorization and direction to this vital agency. All parties working on highway safety share the common goal of saving lives and preventing injuries. This measure will advance that process, and go a long way toward achieving these goals. I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, the amendment being offered today combines three measures approved by the Commerce Committee in this session: the Omnibus Transportation Employee Testing Act of 1991, the National Highway Traffic Safety Administration Authorization Act of 1991, and the Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

The first section of the amendment includes language identical to S. 1012, the Omnibus Transportation Employee Testing Act of 1991, which is designed to prevent needless deaths attributable to the use of drugs and alcohol by the operators of our transportation systems. This legislation passed the Senate on May 20, 1991, and is essentially the same bill that Senator DANFORTH and I introduced in the 100th and 101st Congresses. Those bills were debated, reported by the Commerce Committee, and passed overwhelmingly by the Senate twice in the 100th Congress and three times in the 101st Congress. However, regrettably for transportation safety, the 101st Congress ended without an agreement with the House on drug and alcohol legislation. This Congress, once again the Commerce Committtee overwhelmingly has reported this bill, recognizing the need for drug and alcohol testing.

The need for this provision is clear. Countless accidents, already documented by the Commerce Committee, have occurred where the person responsible for the safety of the traveling public was found to have drugs or alcohol in his or her system.

DOT has issued a series of transportation testing rules and regulations. However, the regulations cover drug testing but do not include alcohol testing. Our amendment includes alcohol—another drug with serious consequences to safety. In addition, the drug rules covering mass transportation workers issued by DOT were struck down by the D.C. Court of Appeals in January 1990; the court found that the Urban Mass Transit Administration did not have sufficient agency authority to mandate drug testing. The amendment corrects that deficiency. We cannot afford to have millions of commuters each day subject to the risks of drug and alcohol abuse by the operators of the systems. Furthermore, enactment of mandatory drug and alcohol testing, including random testing, ensures that such testing will continue

despite possible changes in the administration officials charged with its implementation.

This amendment is eminently fair. It both mandates testing to protect the public and includes strong safeguards to ensure accurate testing and to protect innocent employees. These safeguards include a requirement that testing follow Department of Health and Human Services guidelines; that initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the results and medical histories be protected. It is also multimodal, covering the rail, aviation, motor carrier, and mass transit industries.

Mr. President, those who drink alcohol and/or use illegal drugs have no business operating a train, plane, truck, or bus. They have no business assuming responsibility for innocent lives. I know the vast majority of transportation workers do not abuse the trust we place in them, but we cannot take the risk that a few of their colleagues do not share their dedication and professionalism.

The second part of the amendment is the reauthorization of NHTSA, which was unanimously reported by the Commerce Committee in May. We all know how important this Agency is to preventing highway deaths and injuries. Since approximately 45,000 people still die every year in highway accidents, it is clear that this agency's work must continue, and must have the strong support of the Congress.

This legislation is similar to S. 673, which was unanimously reported by the Commerce Committee in the last Congress. Although the Senate passed S. 673 on a voice vote early in the session, the House did not consider the bill, so we must begin the process again.

The bill includes authorizations for all NHTSA's programs, including the important 402 grants to the States, and a revamped and streamlined program of incentive grants to the States to prevent impaired driving. As HHS Secretary Sullivan recently stated, about two in every five Americans will be involved in an alcohol-related crash at some time in their lives. Clearly, this part of NHTSA's work must continue to be given high priority.

This amendment properly addresses the priority items necessary to make our highways as safe as possible for the driving public. It authorizes the work of an important agency. It has the unqualified support of consumer and highway safety advocates, as well as major insurance companies. I urge my colleagues to support it, as they have supported similar legislation in the past.

Finally, Mr. President, the amendment reauthorizes the Motor Carrier Safety Assistance Program [MCSAP]. MCSAP was created in 1982 and provides grants to States for roadside inspections of commercial vehicles and drivers, as well as safety audits at the terminal of truck and bus companies.

This amendment will continue the existing program which is widely regarded as a successful Federal-State partnership, by making some modifications intended to better direct the program toward the cause of accidents involving commercial motor vehicles. The amendment increases the MSCAP funding levels and includes certain programmatic changes that States must make in order to qualify for MCSAP grants. The amendment strengthens the program beginning with fiscal year 1993 by requiring a State to strengthen enforcement in a number of areas such as: Drug interdiction; drug and alcohol enforcement; the commercial drivers' license program; traffic safety enforcement in relation to commercial vehicle safety; and hazardous materials efforts.

Other provisions include initiatives designed to establish a drug-free zone around truck stops by doubling the penalty levels for those persons convicted of selling drugs within 1,000 feet of a truck stop. DOT is also required to conduct a rulemaking on the need to adopt methods for improving truck braking performance. Finally, the amendment seeks to deter violations of out-of-service orders by developing a penalty structure for these actions.

Mr. President, I urge my colleagues to accept this package of transportation safety amendments.

Mr. EXON. Mr. President, I join the chairman of the Commerce Committee, Senator HOLLINGS, and other Members, in support of the package of amendments being offered today by the Commerce Committee. As a member of that committee I fully support the provisions of this amendment dealing with employee drug testing as well as the reauthorization of the National Highway Traffic Safety Administration [NHTSA]. As chairman of the Surface Transportation Subcommittee which developed the language in S. 631 to reauthorize the Motor Carrier Safety Assistance Program [MCSAP], I would like to expand my support of this vital program.

MCSAP is one of the largest and most successful Federal and State partnerships designed to improve truck safety. This program provides grants to States for roadside inspections of commercial vehicles and drivers, as well as safety audits at the terminals of truck and bus companies. MCSAP currently funds 1.15 million roadside inspections and about 10,000 safety audits annually. This amendment authorizes funding for MCSAP of $65 million for fiscal year 1992; $70 million for fiscal year 1993; $75 million for fiscal year 1994; $80 million for fiscal year 1995; and $85 million for fiscal year 1996.

In order to receive money from MCSAP, States must designate a lead agency to administer the plan, implement uniform methods for record keeping and inspections, and participate in data bases on drivers, vehicle inspections, and traffic accidents. The amendment encourages increased enforcement beginning in fiscal year 1993 in various areas, particularly, traffic enforcement efforts, as well as compliance with the CDL Program.

In conclusion Mr. President, I would like to acknowledge the extraordinary efforts put forth by Senators BURDICK and MOYNIHAN in their leadership of the highway bill and urge my colleagues to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 307) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GORTON. I thank both Senators for their courtesy.

Mr. SYMMS. Mr. President, I also thank the Senator from Washington for his patience. He has been waiting for quite sometime today and I am glad that we could get him accommodated.

AMENDMENT NO. 306 TO AMENDMENT NO. 305

Mr. SYMMS. Senator GLENN made some comments and I just want to briefly set the record straight. First off, private property in no way can ever do anything. There is no private property right in this country to do anything to harm anybody's health or safety. So that is something Senators do not need to worry about.

What this amendment does is it says either the Government agencies comply with the Executive order or they issue another procedure. It is very clearly written in the amendment in that fashion. I will just read the text. It says:

> No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity with the goal of minimizing such where possible.

So it is not that complicated.

With respect to Senator GLENN'S comments about the hearings—and I want the record to show that there is no Senator in this Chamber that is more a personal hero to this Senator than JOHN GLENN is—I went to the committee. I requested hearings. We worked with Senator KOHL and as of last week Senator KOHL suggested to me that the subcommittee did not choose to have hearings on it and that

they would prefer that I go ahead and bring the amendment to the floor in view of its overwhelming support, some 64 organizations—and some 41 Senators and many others have told me they intend to vote for it—to just go ahead and bring it up and have the vote and settle it. We now have this Executive order. I think from talking to Senator MOYNIHAN we are ready to go ahead and go to a vote.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, before we go to a vote, I will just retain my right to the floor for a moment until Senator MOYNIHAN gets back. Senator MOYNIHAN thought we would just go to a vote. But there are some discussion points and I will start on those until Senator MOYNIHAN returns to the floor.

One of the questions that comes up is we do not need the Private Property Rights Act or amendment because, when compared with problems of hunger, housing, crime, unemployment and other issues, property rights is just not that important.

First, I would say, Mr. President, that those issues of hunger, housing, et cetera, cannot be solved without private property. Furthermore, the argument ignores a critical chapter in American history.

In the Boston Town Meeting in 1772, they called together a committee. Because they were feeling especially harassed by King George, they asked the committee to "State the rights of the Colonists * * * as men, and as subjects; and to communicate the same to several towns and the world." The chairman of that committee was a great American patriot, Samuel Adams. Sam Adams took 2 weeks to write his Treatise on the Rights of Man, and he began his task with the declaration that: "The absolute rights of Englishmen and all freemen, in or out of civil society, are principally personal security, personal liberty, and private property."

Throughout the succeeding revolutionary period these three rights were time and time again recalled—life, liberty, and property. They appeared in article 1 of the Bill of Rights of Virginia and in that same article in the Bill of Rights of Massachusetts. They eventually were written that way in the fifth amendment of the Constitution.

It was only in drafting the Declaration of Independence that Thomas Jefferson slightly altered the phrase to read, "life, liberty, and the pursuit of happiness."

In later years he explained why he chose those words. It was not because he felt the right to pursue happiness was somehow more important than the right to private property. Rather, he explained, "A right to property, is founded in our natural wants, is the means with which we are endowd to satisfy those wants." To Jefferson, the pursuit of happiness, the satisfaction of our wants, as he put it, and private property rights, were inextricably linked.

Anyone who has ever been to Monticello, Jefferson's home outside Charlottesville, VA, will immediately understand why Jefferson saw private property ownership and "the pursuit of happiness" as one and the same. Monticello is nothing less than a work of art. Jefferson himself surveyed the property, laid out the building plan, designed his home, surpervised the construction, and tended its extensive pathways and gardens. He loved his property, not out of selfishness or materialism but as an artist who takes pride in knowing he has mixed his work, his blood, sweat, and toil with the land and produced something totally, truly admirable.

Two centuries later the institution of private property has lived up to Jefferson's expectations. America's agriculture productivity, leadership in medical and engineering technology, the wealth of entrepreneurial opportunity, can be traced to the incentives inherently created by private property rights. It is truly the means through which we pursue happiness.

So I put it to you, Mr. President, that it would be simply incorrect for anyone in criticizing this amendment, which has broad sponsorship in this body, to say that private property rights are just not as important as many other issues pressing Congress today.

Mr. President, another criticism that has been raised by the critics of this amendment: We do not need the Private Property Rights Act because no one's private property is really being threatened. That is an objection we often hear. We would have a hard time making that argument with many of the farmers and ranchers in this country who have run across the wetlands issue, who have tried to improve and fix their property and find out that they are having it literally taken from them by the big hand of Federal Government.

We would really have a hard time making that argument to John Pozsgai of Morrisville, PA, a Hungarian immigrant and self-employed mechanic. John decided to exercise a right that had been denied him in his native Hungary, Communist Hungary. In 1987 he purchased a few acres next to his mechanic's shop. The acreage had been used for 30 years as an illegal dump, filled with old tires and rusted auto bodies. He removed the refuse and replaced it with clean fill in order to improve the appearance and value of his property.

Guess where John is today? He is in prison. He is serving a portion of his 3-year prison sentence while his family is strapped by a $200,000 fine. What was his crime? The garbage dump that he cleaned out was found to be a wetland, and by filling in the area with clean dirt without a permit from the U.S. Government he violated the Clean Water Act regulations. That is what Mr. Pozsgai had to say in his defense. "We thought this was a free country. You buy a piece of land and you use it."

Or what of the family in Colorado, fined for objecting to the fact that the Corps of Engineers had placed levees on a river in such a way that the river channel was diverted onto their property? In order to reclaim their farm they built some levees of their own, restoring the river to its original channel. For their effort they were fined by the Corps of Engineers the paltry sum of $45 million. Yes, that is what I said, $45 million.

There are hundreds of cases like these around the country. But we do not need to rely on these kind of anecdotal stories.

Consider the hard numbers. In 1990 alone the Federal Government issued 63,000 pages of fine print regulation on the use of private property. It is not hard to imagine that some of that regulation places severe limitations on property use. There is no question about it; it does if the property owners feel a regulation has gone too far, that their property rights have been taken without compensation.

Oh, yes, for those who say we already have the fifth amendment, that is true. We do have the fifth amendment, so we can sue them. But you better have a giant bankroll if you have to take on the Federal Government in court, if you have to sue the Federal Government in order to establish your right to private property.

As a matter of fact, in many of the cases, the property rights owners win the cases when they are able to take on the Federal Government. The U.S. Government is currently facing well over $1 billion in such outstanding takings claims. Just in 1990 alone several of the largest taking judgments in the history of the United States were handed down by the U.S. Claims Court with the single largest judgment of all time—the Whitney benefits case totaled nearly $120 million—being affirmed by the Federal circuit as recently as this past February.

In California, property owners who can afford legal costs are winning at least half of their cases, if not more, of the taking claims cases before the intermediate appeals court. According to a recently released report by the Congressional Research Service, property owners won regulatory taking cases before the Federal courts in 1990 more often than not.

Astonishingly, what astonishes me, is the Federal Government wins 9 out

of 10 times in other areas of law but they are losing on these cases, these 63,000 pages of regulations. As President Bush has said and as Vice President QUAYLE has said, as Attorney General Thornburgh is saying to Congress, the administration needs this regulation to get a procedure down that will protect the rights of property owners in this country so they can in some way rein in the head of this huge Federal bureaucracy that is issuing 63,000 pages of regulations. That is all this simple amendment does.

I might say that is why some of the finest lawyers in this Senate are sponsors of this amendment. When I look through the list, some of the finest attorneys: Judge HEFLIN sponsors this amendment—I can go down the list: BOND, BOREN, BREAUX, BROWN, BUMPERS—Senator SPECTER, for example, one of the most respected attorneys; the former attorney general from Washington State, Senator GORTON, sponsors this amendment. This amendment has had a lot of very fine legal minds look at it and they have said this needs to be agreed to, not the least of which is the Attorney General of the United States, who wants this agreed to. The Vice President of the United States and the President of the United States are solidly behind this amendment.

Another criticism we often hear, we do not need the Private Property Rights Act because we already have a fifth amendment. It has always been the case that when Americans feel that the Government has failed to respect their basic constitutional rights, they may sue, demanding that their rights be honored. As a matter of equity, however, we have never held that rights should only be extended to those who can afford to sue the Government for them. The cost of legal action is not small.

As I said earlier, it could be in excess of $40,000 to $50,000 up front to start a lawsuit against the Federal Government. The disturbing fact brought out by the recent trend in the courts is this: Those property owners who can afford this cost win more often than not, but those court victories actually represent only a small fraction of those whose rights have been usurped. Those who cannot afford to sue currently have no protection of their property rights if they come in conflict with a regulation. That is why we need a process to have these regulations be in concurrence with a system which will protect the rights of property owners.

This is why this amendment is so important. By building private property rights considerations into the regulatory process in the first place, the rights of all Americans—not just the wealthy Americans—are protected. It is not enough to say "but we have the fifth amendment." That is not enough. The duty of protecting and preserving the constitutional rights of Americans does not fall on the individual. It is a duty of all of us here in this Congress to see that those individuals are protected; whether they be rich or poor, big or small, they are in a position that their rights can be protected.

Another argument that I hear so much of, argument number four that I have heard, if private property rights are respected, vital protections for public health and the environment will be undermined. I spoke briefly to that earlier. Senator GLENN mentioned it. This argument would not even be raised if private property rights were truly understood by Americans. No one who owns private property in this country has the right to jeopardize someone else's life, liberty, or property.

Your private property stops at the end of my nose, so to speak. I think that is the way one great American put it, one great jurist. You cannot expect that.

As Justice William Henry Moody, a Franklin Roosevelt appointee to the Supreme Court, noted:

> Our social system rests largely on the sanctity of private property; and that state or community which seeks to invade it will soon discover the error in the disaster which follows:

That disaster may include destruction of our environment, for, as surprising as it may be, private property is the world's most powerful force for environmental protection. The current EPA Administrator who, in my view, is one of the strongest advocates for a good clean environment that this Nation has ever had in that position and a highly respected advocate of a cleaner, better, safer environment, Bill Reilly, the Administrator recently noted on returning from a trip assessing the environmental damage in Eastern Europe, "Many environmental principles are undefendable in the absence of private property."

I think just last week I saw him on TV saying that if hell had a national park, he had just seen it in Kuwait City where there was absolutely no respect for private property under forces of Saddam Hussein that went in and torched the wells. Anyone who had his own well there and was protecting it certainly would not have done what Saddam Hussein's forces did.

I will repeat again what Bill Reilly has said, "Many environmental principles are undefendable in the absence of private property."

His observation, Mr. President, can easily be explained by the old proverb:

> Give a man the secure possession of a bleak rock, and he will turn it into a garden; give him nine years lease on a garden, and he will convert it to a bleak rock.

I think we all know that. The principle is true. It is private property ownership that makes an owner care about the quality of his environment, that creates a true sense of stewardship for the land and its resources. The American environmental community, at its grassroots level, is nothing more than a coalition of private property owners who want to defend their private property rights from pollution and degradation of their neighbors and their government. Undermining private property rights through excessive regulation will not foster greater environmental protection.

Mr. President, another criticism that I hear often, and I will state a rhetorical question brought up: There are those who argue that the Private Property Rights Act is just too much hassle for our Federal agencies; that it will force them to spend too much time considering the impact of their regulations on private property, and not enough time on regulating.

Well, la-dee-dah. If that does not take the cake. With the Federal Government out there regulating, dictating, telling everybody what to do who is running a small business, and that is our concern.

First, let me say this from a factual standpoint. The administration has reviewed the text of this language. This administration argues strongly against that statement. According to the Attorney General—I quote from his letter of last October in which the EPA, the USDA, the Department of Interior, and the Corps of Engineers concur with:

> It is suggested that this proposal would add a bureaucratic roadblock to executive enforcement. This is incorrect * * * the [bill] does not preclude an agency from meeting its statutory obligations, including enforcement responsibilities. It is inaccurate to suggest that this proposal would afford * * * "yet another basis" to challenge agency performance of their statutory responsibilities by creating an "additional bureaucratic roadblock." To our knowledge, [the existing review of regulations], which would not be affected by your proposed [bill]—

Which is this amendment—

> has never resulted in any obstruction of any agency's performance of statutory responsibilities. In short, nothing anything the [bill] you have proposed would create additional burdens for agencies currently complying with the Executive order.

Obviously, the Government agencies themselves do not believe what we are asking would be too much hassle. But for me, I do not even need that reassurance. If you ask a regulatory agency to take on a little extra hassle in order to protect the private property rights of the small little citizens in America who are fortunate enough to own some property—our Government does not exist for the Government's convenience; our Government exists for the convenience of the people of the United States. That is why we have a government. The people gave the Government certain rights. One of those is to protect them and other peoples' ability to own and have private property.

If private property rights are important, then the hassle would be worth it. It just brings us full circle back to the question: Are private property rights important?

Mr. President, I submit that the best statement I could make to that would be a poll that was recently conducted by the Soviet Academy of Science. When you ask young Russians what it is that they really want, what rights or what freedoms they are most eagerly seeking, this is what they said:

"Do you want complete freedom of the press, radio and TV?" The answer is yes, 58 percent; no, 36 percent.

"Do you want Russia to be able to govern itself, and secede from the U.S.S.R.," from the Soviet empire? Yes, 70 percent of the Russians wanted that; 19 percent no.

"Do you want a form of government other than socialism?" Yes, 74 percent; 17 percent, no.

Get this one, Mr. President:

"Do you want private ownership of land?"

Yes, 85 percent; 85 percent of the Russian people want private property ownership more than any other one freedom that they are asking for—think about it—more than the right to the free press or television, more than the right to self-government, even more than the right to extract themselves from under the yoke of socialism. The upcoming generation of young Russians are demanding one thing: private property. They want above all else to own their own property, their farm, their car, their apartment; they want something that is theirs, to care for, to prosper, to build, just as Thomas Jefferson did Monticello, exactly the same thing he did with Monticello, when he noted, to "pursue happiness" by putting their work, their effort into something that belongs to them. He totally understood that with his love for Monticello.

Even if the administration did not believe that the Private Property Rights Act does not impose too much regulation burden on agencies—which they do not; they do not think it is too much of a burden—I would say, "So what if it is a burden on the bureaucrats? What about the people in the country that have granted their tax dollars and the right of Government to exist? What about them?

So I say, Mr. President, as Senators and Congress, along with the President, his Cabinet, and Government officials, we are sworn to defend the constitutional rights of Americans, not our Government's own convenience. If it takes a little more hassle to get respect for constitutional rights, then that hassle is certainly well deserved.

The only man to ever serve this Nation as both President and then Chief Justice of the United States, Chief Justice William Howard Taft described private properties rights this way:

Next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution and the one which, united with that of personal liberty, has contributed more to the growth of civilization than any other institution established by the human race.

Mr. President, President Taft, Chief Justice Taft, in my view, is correct. There is no amount of administrative difficulty that is so great that it requires us to run roughshod over the private property rights of Americans. The work required of the executive agencies to ensure they are not usurping private property rights is well worth it.

Mr. President, I see some of my colleagues in the Chamber who wish to speak on this amendment, and I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise in opposition to the amendment offered by my friend and colleague from Idaho.

Much of what the Senator from Idaho has said about private property rights this Senator—and I presume every Member of the Senate—can agree with.

Clearly, the central event of our time has been the collapse of communism, the collapse of centralized, state-controlled government and economy. I think we can all celebrate the right that we have in this country to private property as people elsewhere in the world, particularly in Eastern Europe and the Soviet Union, strive to achieve that right.

But one of the hallmarks of our system of government is a balance that no right is absolute. I want to respectfully suggest that this amendment takes the tried and true and much revered, much appreciated, much valued, much protected, right of private property in this country and would use that theory to obliterate a host of other rights we have such as the right to due process, the right to be safe, healthy, and free, to be protected by a government of laws that we must depend on because we cannot always protect ourselves.

Mr. President, the Constitution establishes a very fair principle in the fifth amendment that when the Government takes private property there ought to be just compensation. There is a pretty clear line of decisions that establishes what private property is.

There are some decisions which are on the margins in the courts that have begun to raise the question of whether some of the kinds of actions my colleague from Idaho is worried about by regulatory bodies do sometimes affect private property rights, but that is a developing peripheral body of case law that much more appropriately ought to be left to the courts to decide before we come aggressively in through this legislative process and mandate a series of requirements on our Government that I think will effectively and dramatically limit its capacity to protect us, protect our environment, protect our health, protect our safety.

This amendment has major implications for the ability of all agencies of the Federal Government to issue regulations affecting our health, welfare, safety, and environment in a timely manner.

It also has major implications for the very fundamental notion of the separation of powers in America because, in essence, it shifts authority from determining what constitutes a taking of private property from the judicial branch where it has been for a couple hundred years now to the executive branch where it does not belong.

The amendment fundamentally changes the remedies which are available for government actions which constitute a taking. Under the amendment, the remedy for government action which does not comply with the internal executive guidelines on takings is as follows:

First, the regulations cannot be effective. That is pretty serious stuff.

Second, if the regulation is promulgated, an aggrieved party can challenge the action on the grounds the agency has not been certified as in compliance with these internal guidelines. In other words, regardless of whether or not an actual taking has occurred, regulations in a whole host of areas that means so much to the quality of our lives, consumer protection, environmental protection, citizen protection, can be held up and invalidated because agencies do not follow procedures issued by the Department of Justice.

Those are significant issues, Mr. President. And they are significant public interests and rights on the line here which must be considered very, very seriously before Congress legislates in this area.

The bill of the Senator from Idaho has been referred to the Governmental Affairs Committee, and I agree with the distinguished chairman of our committee, the Senator from Ohio, that our committee should have an opportunity to hold hearings on the bill.

I personally have grave doubts about the need for this amendment. The fifth amendment to the Constitution provides a remedy for those who believe they have been injured by a regulatory decision. They can seek restitution for damages in the U.S. Claims Court.

I know the Senator from Idaho and some of my other colleagues are concerned that the Federal Government's regulatory actions are crossing the line now into the "taking of private property." But again, Mr. President, the fifth amendment already provides a remedy in the form of monetary compensation for those instances where the

Government's regulatory actions already do justify compensation.

The Executive order on takings which has been issued asserts that recent court cases have found that entire governmental regulations may result in a taking.

Mr. President, this indicates to me the court system is working. The courts are dealing with this issue. The judicial branch of Government is the proper branch to determine whether or not compensation is required.

One of the most troublesome aspects of this amendment is the openended and blanket authority granted to the Attorney General. This amendment requires agency compliance with the Executive order on takings or "similar procedures to assess the potential for takings of private property." Under this amendment, the Attorney General can impose any new set of unknown procedures on affected agencies. No health or safety regulations on which the American people depend could be put into effect until the Department of Justice sanctioned that they comply with some new test.

It is my understanding that the Department of Justice today has not certified that EPA's guidelines on takings are in compliance with the Executive order. So under this amendment, environmental health regulations could not become effective until this certification is made. That means regulations under the Clean Air Act we adopted last year could be delayed for a significant period of time.

The short of it is that this amendment means lengthy delays in the promulgation of thousands of regulations that affect public health, safety, defense, welfare, and the environment—regulations that are issued pursuant to laws we have adopted.

Even after the Department of Justice certifies an agency's procedures are sufficient, the delay in promulgation of regulations may not end because this amendment states no regulation can be effective until the agency is certified "to be in compliance" and that means the Department of Justice could at any time decide to conduct a review of any agency's regulations to determine if the agency is in compliance.

Private parties who disagree with an agency's actions could petition the Department of Justice to review those actions for compliance with the Executive order or other similar procedures.

This amendment therefore opens the door to an awful lot of mischiefmaking and obstruction of the actions of the Federal Government well beyond the ample provisons of due process and rights of parties affected that are already in the law.

Mr. President, I have no doubt this amendment is well-intentioned, but its implications for the separation of powers between the branches of the Government, its implications for the historic system we have developed in this country, which is so unique, and may I say to my friend from Idaho, in itself so distinct from what has existed in Communist countries, where they have not cared about the environment, they have not cared about public health—these regulations would be frustrated by this amendment.

So I hope the Governmental Affairs Committee will be provided with an opportunity to consider the principles underneath this legislation, that we not legislate on this very important issue as an amendment to the highway bill, and that we not create a system that will make it very hard for Government to protect people, which is what I think the people want our Government to do.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Mr. President, last year I voted for an amendment on this subject which is offered by the senior Senator from Idaho [Mr. SYMMS]. That is because I genuinely support efforts by the executive branch to reduce the chance that Federal regulatory action result in findings by the courts that there has been a taking of private property.

The amendment offered last year applied to regulations promulgated under the authority of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, and the Administrator of the Environmental Protection Agency.

Now, however, the Senator from Idaho has brought it so it now applies to regulations promulgated by "all executive branch agencies, including any military department of the United States Government, and United States Government corporation, United States Government-controlled corporation or other establishment in the executive branch of the United States Government."

Quite frankly, the broadening of this amendment to include worker safety regulations under OSHA, and food, drug, and product safety regulations under the FDA, to name just a couple of new areas covered by this amendment, has prompted me to reexamine this amendment, and I urge my colleagues to do the same.

After now having looked at the broad implications of this amendment, I have concluded that it should be rejected.

First, this amendment would codify an Executive order on "Governmental Actions and Interference with Constitutionally Protected Property Rights," which was issued in the final year of the Reagan administration.

The amendment prohibits any regulation by any Federal agency from going into effect until the Attorney General has certified that the regulation is in compliance with the Executive order or similar procedures.

There are a number of very serious problems with this approach.

The amendment legislatively sanctions the content of an internal, executive branch document, of which the Congressional Research Service concluded the following:

> First that the majority of takings principles stated or implied in Executive Order 12630 overstate the likelihood of a taking, and that the order does not list most of the factors that cut against the occurrence of a taking. Second, there appears to be no justification in Federal taking jurisprudence for the added demands imposed by the order on Government actions aimed at protecting public health and safety. Finally, by explicit text and practical effect the order has the potential to burden implementation of Federal Government programs.

EPA's general counsel strenuously objected to the order as "hopelessly vague and dangerously overbroad" when it was circulated within the Reagan administration.

The second reason that the amendment should be defeated is that it writes the administration a blank check. It prohibits any regulation from going into effect unless it is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures.

Enactment of this provision will allow Attorney General Thornburgh to veto any Federal regulation that he considers to be out of compliance with the Executive order. That's overly broad authority in itself.

But the amendment goes further. It also would allow Attorney General Thornburgh to veto any regulation that he finds not to be in compliance with any procedure that he determines to be similar to the order.

Moreover, the amendment does not limit adoption of takings procedures to a one-time certification by the Attorney General. The Attorney General could revoke certification at any time and regulatory proceedings within an agency could grind to a halt.

Third, there is no provision in the amendment for public participation in either development of procedures or the certification process, or for judicial review.

Fourth, if Congress were to enact this amendment, it would be sending a strong legislative signal that the regulatory programs which are at the heart of a host of many Federal statutes might constitute a taking even though the Supreme Court has ruled otherwise. This could seriously erode the strength of laws and regulations designed to protect public health, safety, and the environment.

The AFL-CIO urges the defeat of this amendment, calling it "a dangerous attempt to completely ignore health and safety, labor, and environmental laws."

The Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act and Superfund require EPA to issue regulations controlling pollution in a manner that protects the public health and safety.

The order, and its codification by this amendment, allow regulations to be promulgated only "in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety programs."

The use of the terms "substantial", "significant", and "no greater than necessary," without further clarification will only serve to hamper legitimate efforts to protect the public health and safety, to protect our workers, and to protect the environment.

Mr. President, for these reasons, I urge my colleagues to reject the amendment.

Mr. President, I also ask unanimous consent that a list of environmental regulations affected by the Symms amendment be printed in the RECORD at this point.

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

LIST OF ENVIRONMENTAL REGULATIONS AFFECTED BY THE SYMMS AMENDMENT

CLEAN AIR ACT

Acid rain allowance system.

National parks protection (visibility).

Application of new source performance standards and new source review (related also to WEPCO).

Any health-based regulation establishing or controlling emissions of criteria pollutants, including lead, sulfur dioxide, ozone, and particulate matter.

All regulations to limit emissions of hazardous air, pollutants, substances that deplete the ozone layer, and greenhouse gases.

Municipal incinerator standards.

RCRA

Underground tank financial responsibility.

Corrective action requirements.

Landfill requirements.

Recycling requirements.

Underground injection limits on oil and gas production.

ENDANGERED SPECIES ACT

Listing of species as threatened or endangered.

Designation of critical habitat.

Prohibitions on killing or harming listed species.

CLEAN WATER ACT

Section 404 limitations on wetland filling.

Non-point source controls.

Effluent guidelines.

Pre-treatment requirements.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I oppose the amendment offered by Senator SYMMS. A version of this amendment—offered during consideration of the farm bill—was defeated last year. I hope that my colleagues will again vote against this amendment. I believe it is unnecessary and unwise.

First, let me take a moment to speak to the underlying issue which the Symms amendment purports to address. That issue is whether the fifth amendment of the Constitution provides property owners with adequate protection against governmental takings of their property. Takings law has been determined largely on an ad hoc basis. That body of law seeks to define where the public interest collides with the rights of private property owners. While society imposes innumerable rules and regulations on individuals, it is clear that, under the Constitution, in most cases, where Government action denies a property owner all economically viable use of his property, that property owner is owed just compensation. In several cases, however, the Supreme Court has made it clear that Government restriction of property uses which threaten public health and safety are not likely to be grounds for a taking.

The purpose of this amendment is not to clarify what constitutes a taking. The purpose of this amendment is to ensure agencywide compliance with an Executive order addressing the potential for governmental actions to interfere with constitutionally protected property rights.

I truly do not understand why Congress is getting involved in this interagency issue. The Executive order, signed by President Reagan in 1988, is in place and Federal agencies are already bound to comply with it.

I understand that the amendment is designed primarily to get four Federal agencies—the Department of Labor, the Department of Health and Human Services, and the Department of Agriculture, and the Environmental Protection Agency—to develop supplemental guidelines in order to comply with this Executive order. I am not sure where this process stands for all of these agencies. But in the case of EPA—an agency that has never been found guilty of a taking—a final draft of EPA's supplemental guidelines is complete, has received favorable review by the Department of Justice, and is likely to receive final approval in the near future. So, these agencies are currently working with the Department of Justice to get these guidelines finalized.

The Symms amendment asks Congress to empower the Attorney General, by giving him the authority to bar the effectiveness of any new regulations, in order to force executive branch compliance with the Executive order. As far as I can see, once Congress passes on this authority, there is no way, short of enacting another law, to get it back. Thus, by providing that the Attorney General can keep all new regulations promulgated by any agency that is not certified from going into effect, this amendment creates potential for trouble.

Under the Symms amendment, the Attorney General can stop all new regulations from going into effect from the EPA, and the Departments of Labor, Health and Human Services and Agriculture or any other agency, U.S. Government Corporation, or other establishment in the executive branch simply by withholding his certification of their compliance with this Executive order or similar procedures.

In a letter to Senator SYMMS, Assistant Attorney General Richard Stewart interprets "or similar procedures" to refer to procedures "that might be issued by the President in the future to modify the Executive order. * * *" Now wait 1 minute. Does that mean, that if President Bush or any one of his successors comes up with a new procedure to modify the current Executive order, the Attorney General could revoke his certification and shut down any new regulations about to go into effect for any agency? This amendment seems to allow a future administration to revoke certification and wreak havoc.

Further, while the Symms amendment's definition of a taking of private property is consistent with the requirements of the Constitution, the descriptions of potential takings in Executive Order 12630 are widely perceived as creating a bias against actions to protect public health and safety. A Congressional Research Service report on takings contains the following comments on the Executive order:

> At the very least, many of the order's principles and criteria unquestionably overstate the risk of taking, while neglecting to mention any of the factors cutting against the existence of a taking. Moreover, the order appears to single out government actions to protect public health and safety for special restrictions, though these are the very actions that are least likely to be found to effect takings.

Richard Stewart describes the Symms amendment as a statutory endorsement for Executive Order 12630. Is the Senate ready to make that endorsement? There have been no hearings on this issue. The amendment is opposed by the chairman of the authorizing committee, the Committee on Governmental Affairs, who has not had a chance to consider this legislation. And, the content of the Executive order is extremely controversial.

Mr. President, I fully support the rights of private property owners and am committed to upholding the integrity of the U.S. Constitution which provides for just compensation when a Federal action amounts to a taking. I believe the Symms amendment to be unnecessary and fraught with potential problems. I hope my colleagues will look closely at its content, not just its title, and join me in voting to oppose it.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I would like to take a few moments to make some general comments on the bill before us, S. 1204.

First of all, I want to thank Senators SYMMS and MOYNIHAN for all of their

hard work on this piece of legislation and for their willingness to listen to individual Mconcerns.

I met with Senator SYMMS prior to the committee markup regarding my concerns with their original bill, S. 965. And I know that some of my other Western colleagues met with Senator MOYNIHAN to discuss similar concerns.

Both of them were very accommodating. I want to specifically thank them for increasing the Metropolitan Planning Organization [MPO] population threshold to 250,000 from 50,000.

While I still find some of the MPO requirements burdensome to smaller States like mine, their accommodation is a vast improvement over the original proposal and I thank them for that.

I rise specifically today to express my support for S. 1204, the Surface Transportation Efficiency Act of 1991.

I am very supportive of the flexibility provided in this bill. I truly believe that each State will be able to meet its transportation needs if S. 1204 becomes law.

In addition, the leeway that this bill gives States in setting standards for its secondary roads is a major step forward in my opinion. This provision alone will benefit rural States that will be able to stretch their highway dollars further because they would not have to meet costly Federal standards.

I trust States' ability to build safe, adequate farm-to-market roads, and commend the authors of S. 1204 for allowing them the freedom to do just that.

Finally, I would like to address the hot issue of the day—funding allocations.

It is no secret that Montana does well under S. 1204—especially in comparison to Senator WARNER's bill. And I support that.

However, I would also like to point out to those who have spoken in opposition to S. 1204's funding allocation that large States and less populated States deserve a fair share of the Federal dollars.

In most cases, we have larger land areas to cover and a small population base from which to draw funding.

Currently, Montana spends $354 on its highways for every State resident, placing it ninth among all States in per capita spending on highways.

In order to raise additional dollars on the State level, Montana would have to raise its gas tax 10 cents in order to generate the same amount of revenue that a 1-cent gas tax would raise in Virginia. In comparison to Florida, that ratio increases to 20 to 1.

A 1-cent gas tax in Montana only raises $3.9 million—compared to $33.2 million in Virginia or $61.4 million in Florida.

If Montana's Federal share is reduced, either our roads go unfunded or Montanans will have to pay astronomical taxes on their gas.

Is that fair? Especially when more populated States have the ability to raise more revenue with relatively little pain. Why shouldn't they be asked to contribute more to their own highway needs on a per capita basis?

I would also like to point out that it is the larger population centers that depend on States like Montana for the resources they need to meet the basic subsistence of life—their food and fiber.

Raw materials must move out of Montana to urban centers. Commerce must move through Montana to urban center.

Montana and other rural States are an integral part of this Nation's overall economy.

Mr. President, I hope that my colleagues will step back and look at this bill from a global perspective. The ability to efficiently move commerce in this country over the next 5 years will greatly affect our ability to compete in the global marketplace.

With the Canadian Free-Trade Agreement behind us and the Mexico Free-Trade Agreement ahead of us, transportation will play a key role in insuring that rural America can participate in these new opportunities.

And last, Mr. President, I would like to point out that Montana and other donee States have not received more than our fair share of Federal highway dollars over the past 40 years as some have claimed.

In this Nation's effort to complete the Interstate System, 52 percent of all highway user fees were spent on the 44,489-mile Interstate System—of which only 1,191 miles are in Montana; 805,225 miles, or nearly 95 percent of all eligible roadways, were left to compete for the remaining 48 percent of the highway user fees.

Federal records show that 376,471 miles of road received no Federal funds. And I can tell you which roads they are—they are the primary and secondary roads important to intra- and inter-state commerce.

They are the roads that connect rural areas to the interstate to facilitate the movement of the goods I talked about earlier.

Only 31 percent of rural counties currently have access to the Interstate System while 77 percent of urban areas are served by an interstate highway.

Clearly, rural America has not made out as well as some would like to believe.

I hope that my colleagues will take a broader look at this bill.

I urge my colleagues to reject any amendments to slant the Federal Highway Program toward more urban States and to maintain a balance that is fair to rural America—and to America as a whole.

I urge my colleagues to support S. 1204.

Mr. President, generally, regarding the bill that we are talking about today, S. 1204, some would say that probably we, as representatives of our different constituencies, are talking about our piece of the pie. Different formulas have been talked about, and some folks would stand around here and say that they would be losers and there would be winners.

Basically, what we are talking about in this bill—and I will address this particular amendment in just a minute—is so important to this Nation that it is basic to our very commercial existence.

We in Montana represent large spaces. We did not ask to be as big as we are, but we are that big. As a result, we are a State that probably receives, of the Federal dollars, more back than what we contribute.

But the figures have also been shown that as to U.S. citizens, our per capita expenditures are higher than some of the rest of the country, because we just have a higher gas tax in Montana, and of course there are less of us. We did not ask to be 148,000 miles big. We did not ask to be living on the Canadian border, where we have maybe some problems of maintaining our roads and highways that other parts of the country do not have, like the thaws and freezes and the depth of cold.

So as this goes on, and the debate goes on about what is fair and what is not fair, we say that we are all part of a national transportation plan. When we start looking at a national plan, let us be reminded that probably the biggest downfall to our competitor, and yes, at times, our adversary—but it becomes less everyday—the U.S.S.R.; look at their overall plan.

Last year, they harvested the biggest crop they have ever harvested to feed their people. The biggest crop. But they lose one-third of that crop by the time it is harvested, until it gets to their people to feed them. One-third of it. Then they have to go outside of their own nation and ask for credit and ask for help to feed their people.

The second thing we do every morning when we get up every day is eat. We are no different than any other nation in the world. Neither are they.

I support this bill, S. 1204, wholeheartedly, because I think it is, in all fairness, fair. It gives the State some flexibility that we truly need.

Let us talk about the amendment that is on the floor. Last year, this amendment was introduced as a bill, wholeheartedly supported by a lot of folks. Wonder why? Because this is as basic to our Nation and our freedoms as personal property. It never ceases to amaze me how many people can make how many arguments using great big words to erode a basic right of every American. And they do it under the guise of excuses like the Government

has primacy over everything that we do.

People do not draw their power from the Government. It is the other way around.

I was an original cosponsor last year and an original cosponsor this year. I believe that we need to reaffirm our support for the individual, for his or her justly acquired property. After all, what is any worse in this Nation than a tyrant in the White House, an executive tyranny, or tyranny imposed by a bureaucracy? There is no difference. It is still the taking of and eroding of property rights, one of the cornerstones of our society and a principle that has made this country great.

Federal legislation such as wetlands designation is threatening to stifle the critical economic development and, yes, at times environmental development, utilization of natural resources, those facilities nationwide. We had wetlands legislation as well as other Federal laws, such as the Endangered Species Act, which, while well-intentioned and would be supported by a number of us, go far beyond what we believed at the time of passage was their original intent. I do not think anyone would want to prevent the repair of a leaking irrigation system—we have them in Montana—or keep a wetlands that was created only as a result of the leak. But we are seeing those instances continually surface around our own neighborhoods, just as I am not sure that the Endangered Species Act envisioned virtual shutdown of tremendous areas in the Pacific Northwest as a result of the Spotted Owl. People's jobs and livelihoods are at stake. The economic impact on that area will be tremendous, tens of thousands of jobs and a State's inability to collect revenue, supply the services that are demanded by her people. They will not even be able to support their schools on a local level.

People are going to jail over the issue of private property running into Federal law. And is it not too bad that bureaucracies have to go to the Attorney General to find out if they are in bounds before they can take private property? Is not that terrible? It is going to be decided either by the Government or those people who we represent or is it going to be decided by the courts? Do you want to leave your fate to the courts?

A poor little man up in Pennsylvania—and everybody heard the story—cleaned up a useless lot and filled it in in order to expand his business. It was just an old wet pond, never had anything in it, just old junk, worn out tires and mosquitoes. He did not like the mosquitoes, filled it in, and made it a place where it is livable, habitable, a healthy place to live. He ended up going to jail for it. He is serving 3 years in jail. Would it not be too bad if that bureaucracy had to come to somebody and say, "Are we in bounds or out of bounds?" It does not make a lot of sense.

So those who would view this as an encroachment on Government, so be it. From my point of view, Government does not have all the answers, and sometimes, if they think they have the answers, they do not have the right ones. Usually the decision is made by someone who does not even live in the neighborhood.

So this is a good amendment, and I think it reaffirms this body's dedication to the basics of our Constitution, that is, private property and the rights that go with it.

So I thank the Chair for this time, and I thank the managers of this bill for their very careful consideration. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I will just respond. I am sorry I was at another meeting temporarily so I was off the floor, but I can summarize my views of this in very few words. The way this amendment was written, which was originally S. 50, it said basically that—let me go back, let me preface that remark with a different remark.

I listened to Senator BURNS very carefully because what he is talking about is property rights, and I do not quarrel with property rights. I am as much protective of property rights as anybody else. But the way this is written, as I understand it, if you had a regulation, it would have to go to the Justice Department even to be analyzed to see whether it had property rights involved, even though it was a health matter, whatever other matter that it was, that might really be directed to anything with what we normally think of as being property, as being property under eminent domain or whatever, being taken for highways or for watever governmental purpose, but it would not maybe have that in it.

But in order to certify it did not have that in it, it would still have to go to the Justice Department to be approved or disapproved and let someone decide, as I read into the RECORD a little while ago the write-up of what might have happened under a Justice Department that was under the control of Ed Meese, and that gave some of the people who watched that very carefully some real problems.

So this, in effect, sets up another potential bottleneck that could be used to thwart the congressionally approved, mandated, and signed by the President, laws and requirements that different agencies of Government never intended. So that is the reason I say let us look at this thing. In our haste to get this thing through here, let us not approve something like this that we should be taking a very balanced look at to make sure what the long-term implications of it are going to be.

That is the summary of it. I am opposed to the legislation. I am sorry it was turned down for a hearing to begin with. That is the way it goes. We can remedy that all right and have a hearing on it and develop the pros and cons and potentials of this thing. I hope people will oppose this amendment. I hope we can convince the floor manager to withdraw it and send it to the committee and have a hearing on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do not want to delay the issue, and I commend the senior Senator from New York and the senior Senator from Idaho for the splendid work they presented to us in committee with regard to the highway bill, and, after all, that is the essence of what we are about today. But I do have a statement. I see the majority leader has arrived here, and when he is ready to take the floor I will yield.

But, principally, back to this amendment: I do favor the amendment. I know you have had a rather contentious debate, but we in the public lands States understand this better than most and we try to bring it to the attention of our colleagues continually about things that happen to us in that part of the country with regard to various Federal laws. These laws are passed to control various land uses, and we get the National Environmental Policy Act business, the Wilderness Act, the Surface Management Control and Reclamation Act, the National Forest Management Act, Federal Lands Policy Management Act, the Endangered Species Act, Clean Water and Clean Air Act, to name but a few, and now we have wetlands regulations. None of them are bad. I voted for many of them. They were never bad when they first passed.

But take wetlands, for instance, given birth by the Corps of Engineers and the Environmental Protection Agency. They are the dual mothers of that legislation, the father being unknown. And presumably, under the authority of these various acts, it is a far cry from what we originally intended as a national priority.

So I do not want to delay the proceedings. I think it is a very serious and important amendment and we will cast a vote for property rights. I agree with the Senator from Ohio that we can have hearings, but it will impel us along our course more vigorously if we are able to send this on to hearing status.

I thank the Chair.

The continuing and contentious debate over use of our public lands, be they forest lands or range lands, has been ranging now in Congress and all across America for years. Numerous

laws have been passed to restrict and control certain uses: The National Environmental Policy Act, the Wilderness Act, Surface Management Control and Reclamation Act, the National Forest Management Act, the Federal Land Policy Management Act, the Endangered Species Act, the Clean Water and Clean Air Act, to name but a few. The Nation's demands and priorities change—and hopefully, Congress and our laws eventually reflect these changes in society.

Twenty-five years ago, when the public land management policies began to be more cognizant about, aware of, and responsive to environmental protection, it was a bit more understandable since, after all, these lands were owned by the public and some changes may well have been necessary. Some environmental abuses were occurring and that cannot be denied. But today, particularly in the West because we are such close neighbors to public lands, we are seeing this mentality of conservation or environmental protection at any cost sweep across the Federal boundaries of public lands and out onto our private lands.

Some folks, in and out of Congress and the Federal Government, feel it is their right, indeed, their duty and civic responsibility, to mandate just what actions will and won't occur on private lands in order to protect environmental qualities. This is right were we find ourselves today with wetlands policies and with the Endangered Species Act, and we in Congress and the Federal Government must act with more care and attention than ever before.

This country has made remarkable progress in protecting many important features of our environment on public and private lands. The Endangered Species Act may not have been bad in its inception, but it surely is getting out of hand in its application on private property because of the way it is being interpreted and the scope with which some people want to see it applied to actions on private lands.

The Clean Water Act may not have been bad when it was first passed in 1972, but the wetlands regulations that have been given birth by the Corps of Engineers and the Environmental Protection Agency, they are the dual mothers of all that—the father being unknown—presumably under the authority of the Clean Water Act, are a far cry from what Congress ever intended as a national priority. Especially now in the way it has been applied to restrict one's right on private property.

The very essence of America—a strong and vital economy—is what allows us all to enjoy the standard of living which gives Americans the opportunity and ability to enjoy a clean and refreshing environment. Yet today, with some of the environmental initiatives we're facing that restrict commodity use and development on private and public lands, we're threatening and injuring the very economic base that allows our country to even think about and work toward a clean environment.

When many of these environmental laws were first passed by the Congress, conservation was the national goal. But today, in many cases, certain regulations and proposed laws not only now cross the boundaries of lands, but also cross the line from conservation to preservation, a land management theory which seems to connote no action at all—zip—nothing. Preserving lands as they are today or even trying to recreate the circumstances of yesteryear brings businesses and growth and activity to a dead standstill. And for what—environmental protection? We already have that. Some conservation ideologies have become preservation ideologies, and in those circumstances, especially in the rugged West, we end up fighting continually for the very basics of what we all believe in.

Congress and the administration will face some very interesting battles in this session which deal with the constitutional rights of private property owners. We will have to approach each problem and circumstance issue by issue, vote by vote. And every vote is one surely worth fighting for. If you ask any of us straight out if we believe in private property rights, we would all answer yes. But private property rights get cloaked in very creative and complex arguments and other issues and agendas. Many special interest groups lobby so hard and extensively on Capitol Hill that some folks need to be reminded that each spoke is very much as important as the whole wheel, and any final legislation or initiative, no matter its environmental significance, is not acceptable if it treads on your rights as a private property owner.

No one action for property rights protection will make the difference. It is a mindset in Congress and the entire Government that requires a continual effort that you must work for, and that I work for daily. This amendment before us now requires that Federal agencies adopt administrative procedures to assess the potential for taking private property in the course of regulatory activity, with the goal of minimizing such where possible. It codifies what we already have by an Executive Order 12630. It is straightforward and it reflects a very basic value on which this country was established.

Today, we are not caught in the fray of a difficult environmental issue. We are not enmeshed in a judicial debate. Instead, we are asked to cast a vote which either protects our private property rights or not. I urge my colleagues to vote with Senator SYMMS and myself in favor of this basic constitutional right.

The PRESIDING OFFICER (Mr. GRAHAM). Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I do not believe any Senator is seeking recognition at this point. Two Senators that I am aware of would like to speak on this matter. Accordingly, I suggest the absence of a quorum until they have reached the floor.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

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

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

Mr. DIXON. Mr. President, are we on a time limitation of any sort?

The PRESIDING OFFICER. There is no time limitation.

Mr. DIXON. Mr. President, in that event, I rise in support of the amendment offered by my friend, the senior Senator from Idaho.

Mr. President, the great confusion and frustration that current wetlands' regulations pose is well documented. Conflicting regulations and inconsistent enforcement have resulted in a bureaucratic nightmare for many of our Nations businesses—from our rural farmers and ranchers, to our urban realtors and developers. The amendment now before us, which I rise in support of, will provide property owners with reasonable protections and safeguards from reckless Federal actions.

This bill does not limit Federal agencies' authority to regulate or fulfill any legislative mandate. Rather, the bill requires Federal discisionmakers to assess the potential impact of their regulatory action on private property rights, and minimize the transgression of private rights whenever possible.

The importance of wetlands cannot—and should not—be questioned. Wetlands support wildlife and fisheries, protect against floods and droughts, and help clean up pollutants before they can filter into ground water, lakes, and streams.

The preservation and restoration of wetlands have created certain problems, however, because the policy, definition, and regulatory authority on wetlands is extremely vague. At least four Federal agencies have jurisdiction over our Nation's wetlands: the Environmental Protection Agency, the Corps of Engineers, the Fish and Wildlife Service, and the Soil Conservation Service. Additionally, these agencies approach the classification of wetlands based on differing priorities, goals, and objectives. Today, wetlands run the gambit from coastal marshes to arctic tundra to seasonal prairie potholes.

In my State of Illinois, 40 percent of all crop land—crop land currently in production—is hydric soil. Under the Corp of Engineers' expanded criterion, hydric soils are now classified as wetlands. Should these farmers who farm

the land, repair tiles or levees, or apply chemicals and pesticides too close to designated areas be penalized? Unfortunately, nobody knows for sure, not even the Federal agencies who regulate wetlands. These farmers must proceed at their own risk. Something must be done to establish rationality and fairness to this process. We must approach the preservation of our Nation's wetlands in a reasonable and balanced way.

Mr. President, this amendment is an important first step in restoring a rational approach to the wetlands' problem. I urge my colleagues to support this amendment.

I yield the floor.

Mr. WALLOP. Mr. President, I rise to speak for the Symms amendment reaffirming the Constitution's protection of private property rights. Last week I addressed the Wyoming Stockgrowers Association's annual meeting held in Sheridan, WY. And, so often as it is the case in my State, the concerns focus on the Federal Government and it's encroachments on private property rights.

Ambitious Government policies intended to protect the environment increasingly, and often ridiculously, interfere with the constitutional rights of private landowners.

The U.S. Government is a bureaucratic monster when it comes to takings. It has spent $3.7 billion to acquire 4 million acres of recreation lands since 1965, yet has a backlog of land condemned but still unpaid for which exceeds $6 billion. That's 6 billion dollars' worth of private property rights?

And there's more—$58 million of the taxpayers money was awarded by the Federal courts over a 2-year period to satisfy just compensation claims under the fifth amendment. Pending court cases currently total upwards of $1 billion.

Private property owners can be injured by more than just legislative takings. California water users experienced the frustrations and expense of governmental restrictions when they attempted to repair their leaky canals. It seems the wetlands created by their inefficient water system has become habitat for wildlife. When the Government learned about the proposed repairs, it forced the private water users to mitigate the impact on the accidental habitat by retaining the artificially created wetlands. All of this, using their own money and their own scarce water.

Perhaps the most classic example of a taking is found in the case of rancher and conservationist, Dayton Hyde. Hyde took a poor piece of land and turned it into a lake and the area around it into a wetland.

But, Hyde's environmental improvements made him a victim of eager regulators who considered it their duty to protect the environment. His lands were zoned for wetlands and his operation was choked by the resulting regulations.

As Robert Frost said, "Good fences makes good neighbors." In Wyoming, the Federal Government is a large neighbor with almost 50 percent ownership of the State. S. 50 will help our neighbor stay inside its fifth amendment's fence. This amendment forces them to identify the boundaries, and more importantly, to recognize when it crosses those boundaries. With its fence clearly charted, the Federal Government can become a good neighbor.

PRIVATE PROPERTY RIGHTS ACT

Mr. DURENBERGER. Mr. President, I am pleased that the Senate has the opportunity to vote on the Private Property Rights Act. I commend and thank the senior Senator from Idaho for his leadership on this important issue. I strongly support him in this effort.

It is, in my judgment, fitting that the Senate reaffirm its support for the rights of private property owners during consideration of the Surface Transportation Act. The seemingly ceaseless stream of Federal regulation in a multiplicity of important areas are not without consequences affecting the citizens of this Nation. All too often, regulations are promulgated which restrict the use of private property to such a degree that the value of property is diminished and livelihoods are disrupted. This should not be the case.

While I support many of the regulations which have caused these unintended effects, I also recognize and support the obligation of the Federal Government to consider the implications of these regulations for all Americans. When regulation results in effectively taking property, our Government is obligated to offer recompense to its owners. Compensation is not only required by the fifth amendment to the Constitution, it is required by decency and fairness.

Regulations designed to benefit all Americans should never come at the expense of the individual property owners who, for no fault of their own, get caught in the crossfire. There also is no reason why aggrieved property owners, not to mention the Federal Government, must go through tortuous and costly court battle to address this issue. I am optimistic, Mr. President, that the Private Property Rights Act will greatly reduce the need for litigation and help to eliminate the disruption caused by Federal regulations.

I hope, Mr. President, that this amendment will signal a new sensitivity and commitment on the part of the Federal Government, not just on issues of taking, but in every respect, to the consequence of its regulations on the people of America.

Mr. MITCHELL. Mr. President, I rise to oppose the amendment and I urge my colleagues to vote no on this amendment.

I think it is important to put this in some perspective so we understand the background of the issue on which we are voting.

The Reagan administration issued Executive Order 12630 on March 15, 1988, titled "Government Actions and Interference With Constitutionally Protected Property Rights."

The amendment by the senior Senator from Idaho incorporates the Executive order in law by reference.

The alleged purpose of the Reagan Executive order is to assure that Federal actions do not run afoul of the fifth amendment provisions of the Constitution, which requires just compensation for takings.

But the effect of both the Executive order and the amendment is to undermine our health, environmental, safety, and civil rights laws.

Nothing currently allows Federal agencies to act in a manner that is inconsistent with the Constitution. No law is needed to guarantee that the Constitution is the supreme law of the land. That issue was settled two centuries ago in Marbury versus Madison.

But a law would need to be passed to provide the Department of Justice with oversight over all Federal regulatory actions.

This amendment is such a law. It could hamstring Federal implementation of our laws.

The irritant that draws the Senator from Idaho to the floor is reportedly the fact that the Environmental Protection Agency has failed to finalize its guidelines for implementing the Reagan Executive order.

Why should Congress pass a law to assure that the Federal agencies act consistently with an Executive order? Surely the power of the President extends to assuring Federal agency compliance with a Presidential order. If the problem is the absence of EPA guidelines, then the administration can remedy the problem.

We should not hold up Federal regulations, pending approval of guidelines and certification by the Attorney General, over a problem of internal administration implementation of an Executive order.

There are problems, however, with the Executive order itself. The Executive order describes its two purposes as: First, ensuring that Federal agencies act "with due regard for the constitutional protections provided by the fifth amendment," and second, reducing "the risk of undue or inadvertent burdens on the public fisc resulting" from agency action.

The Executive order fails its first purpose because it does not accurately describe current takings laws as articulated by the Supreme Court.

The Executive order is intended to respond to three takings cases decided by the Supreme Court in 1987:

Keystone Bituminous Coal Association versus DeBenedictis;

First English Evangelical Lutheran Church versus City of Los Angeles; and

Nollan versus California Coastal Commission.

The general thrust of the Executive order reflects an interpretation of these cases as new takings law.

However, to the extent these cases simply reiterate current law, there is no need for the Executive order.

But the Executive order does not accurately reflect the holdings in these cases.

In fact, the Executive order articulates a view of takings law that is well beyond the point reached by the Supreme Court on inverse condemnation.

Therefore, the Executive order cannot assure consistency with the just compensation clause because the order is itself inconsistent with decisions of the Supreme Court.

The Executive order also implies that the fifth amendment creates a constitutional protection of private property against inverse condemnation. In contrast, the Supreme Court has held that the just compensation clause merely ensures compensation for such takings and does not bar inverse condemnation.

As for the second purpose, the Executive order never describes "undue or inadvertent burdens on the public fisc" resulting from agency actions that may result in takings.

However, according to information obtained from the Federal agencies by the House Merchant Marine and Fisheries Committee, the United States paid on average less than $2 million annually for takings that might have been avoided by implementation of the Executive order. So there have been no "undue or inadvertent burdens on the public fisc" that need to be reduced.

In addition, unless a Federal statute provides otherwise, Federal agencies are limited to the factors prescribed in their authorizing statute and regulations when making decisions on the application of Federal regulatory authority to private property.

For example, whether a permit denial may be construed by a court to effect a taking is not a relevant factor in an agency's decision to grant or deny a permit, absent express legislative authority making it a factor.

As a result, it is logical to conclude that agency actions that may be construed as takings are not "undue or inadvertent" so long as they are not arbitrary, capricious, unlawful, or outside of the authority granted by the enabling legislation.

Of course, if agency regulatory actions fail to meet the test of the Administrative Procedure Act, if applicable, or they are beyond the scope of the agency's authority, then they are subject to invalidation by a Federal court, which would obviate any claim of a taking.

Therefore, regulatory actions that may result in takings are either authorized and valid, in which case they are neither "undue nor inadvertent," or they are not, in which case they are not takings.

Since neither stated purpose is valid or logical, one can conclude that the Executive order's true purposes are unstated.

I maintain that the order's true purpose is to expand the circumstances in which a taking will be considered to have occurred and to chill the agencies from making regulatory decisions that may be construed as takings under existing inverse condemnation law as well as the expanded view of this law reflected in the Executive order.

This chilling effect appears to be the purpose of the pending amendment. During last year's debate on a similar amendment offered by the Senator from Idaho on the farm bill, he stated that Congress faced two options:

> First, roll back the aggressiveness of our national environment, health, public safety, civil rights and other laws* * *.

The second option was the amendment proffered by the senior Senator from Idaho, which is substantially similar to the amendment.

The clear intent of this amendment is to undermine the effectiveness of our environmental, health, safety, and civil rights laws.

The document appears to be a parting gift or legacy from the administration that introduced the Nation to deregulation.

For example, the Executive order states that "[a]ctions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use, may constitute a taking of property."

The reference to physical invasion presents nothing new.

Physical invasion was first recognized by the Supreme Court as a type of inverse condemnation over 100 years ago and was the only kind of implied taking so recognized for 50 years.

The assertion that "regulations imposed on private property that substantially affect its value or use * * * may constitute a taking of property" is an example of the subtle way in which this Executive order seeks to undermine regulatory protection by chilling agency action.

This statement is of no value to agencies in determining whether a permit denial or regulation will effect a taking.

Instead, it creates a new, vague factor for finding a taking, and one that the Supreme Court has never articulated.

Thus, the Executive order gratuitously raises doubts about agency actions as takings without providing any guidance for assessing whether takings actually have occurred and without being based on established takings law.

The Executive order also incorrectly states that "Further, governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property and even if the action constituting a taking is temporary in nature."

The Supreme Court has expressly "reject[ed] the proposition that diminution in property value, standing alone, can establish a 'taking' * * *"

Even complete elimination of "a beneficial use to which individual parcels had previously been devoted" does not constitute a taking, according to the Supreme Court.

In fact, the Court has rejected a takings determination in cases where the remaining value was only 13 to 25 percent of the unregulated value.

These Supreme Court cases strongly imply that a taking is precluded if any economically viable use remains.

With respect to the protection of public health and safety the order states that actions which "are asserted to be for the protection of public health and safety * * * should be undertaken only in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety purpose."

There is no basis in the 1987 Supreme Court takings cases for limiting actions for the protection of health and safety to "real and substantial" threats and to those that are designed to "advance significantly" such protection.

Instead, the Court in Keystone restated well-established law that a taking occurs if the regulation "does not substantially advance a legitimate state interest."

The Executive order erects a higher barrier for health and safety regulatory actions than for other types of regulatory actions.

The order's requirement that a regulatory action must "be no greater than is necessary to achieve the health and safety purposes" encourages agencies to err in favor of underregulating a health threat rather than overregulating it.

The Supreme Court said in Keystone: "That a land use regulation may be somewhat overinclusive or underinclusive is, of course, no means for rejecting it."

The Supreme Court's approach appropriately leaves the decision to Congress.

In addressing the problem of stratospheric ozone depletion, Congress may elect to overregulate for a period of time before regulation can be tailored precisely to contribution because it may be too late to take effective measures once the level of contribution is precisely determined.

The Executive order attempts to use the Constitution's just compensation clause as an excuse to impose a regulatory philosophy on Federal agency efforts to implement the law without regard to the determinations that were made by Congress in enacting that law.

Mr. President, I now move to table the amendment, if that is acceptable and if debate has been concluded. I move to table the Symms amendment, amendment No. 305.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced, yeas 44, nays 55, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—44

Adams	Graham	Moynihan
Akaka	Harkin	Pell
Baucus	Inouye	Reid
Biden	Kasten	Riegle
Bingaman	Kennedy	Robb
Bradley	Kerrey	Rockefeller
Bryan	Kerry	Rudman
Byrd	Kohl	Sanford
Chafee	Lautenberg	Sarbanes
Cohen	Leahy	Sasser
Cranston	Levin	Simon
Danforth	Lieberman	Wellstone
Dodd	Metzenbaum	Wirth
Glenn	Mikulski	Wofford
Gore	Mitchell	

NAYS—55

Bentsen	Exon	McConnell
Bond	Ford	Murkowski
Boren	Fowler	Nickles
Breaux	Garn	Nunn
Brown	Gorton	Packwood
Bumpers	Gramm	Pressler
Burdick	Grassley	Roth
Burns	Hatch	Seymour
Coats	Hatfield	Shelby
Cochran	Heflin	Simpson
Conrad	Helms	Smith
Craig	Hollings	Specter
D'Amato	Jeffords	Stevens
Daschle	Johnston	Symms
DeConcini	Kassebaum	Thurmond
Dixon	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 305) was rejected.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, if there is no further debate, I yield to the floor manager. But we have a recorded vote ordered on the text of the amendment. I ask unanimous consent that we vitiate the vote and move to the amendment.

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

The PRESIDING OFFICER. Is there objection to the final vote on the amendment? There are two amendments. The vote is on the second-degree amendment.

Without objection, the second-degree amendment (No. 306) is agreed to.

The amendment (No. 306) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the underlying Symms amendment, No. 305, as amended? If not, the question is on agreeing to the amendment, as amended.

The amendment (No. 305), as amended, was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. If the Senator from New York will suspend, the Senate is not in order.

The Senator from New York is recognized.

The pending business is the Byrd amendment.

Mr. MOYNIHAN. Mr. President, once again I ask unanimous consent that the pending Byrd amendments be temporarily laid aside for the consideration of an amendment—I believe there are a number of parts, or sequence of amendments, as the case might be—by the distinguished junior Senator from Montana, who I see is on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, the Byrd amendments are laid aside for the response of an amendment by the Senator from Montana, who is recognized.

Mr. BURNS. Mr. President, I thank the managers of this bill. I have five amendments I would like to offer to this bill. They are noncontroversial and I believe are acceptable to the floor managers.

I first call up amendments 297, 298, and 299. I believe there are some technical corrections on 299 at this time.

The PRESIDING OFFICER. Is there objection to the consideration of these amendments en bloc? If not, without objection, it is so ordered. The Clerk will report.

AMENDMENTS NOS. 297, 298, AND 299

Mr. BURNS. Mr. President, I send amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself, Mr. CONRAD, Mr. DANFORTH, Mr. GARN, Mr. GORTON, Mr. JEFFORDS, Mr. KASTEN, Mr. LOTT, Mr. MCCAIN, Mr. PRYOR, Mr. WALLOP, Mr. SIMPSON, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HOLLINGS, and Mr. MCCONNELL, proposes amendment numbered 297.

The Senator from Montana [Mr. BURNS], for himself and Mr. SYMMS, proposes an amendment numbered 298.

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 299.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 297

At the appropriate place, insert the following new section:

SEC. . RURAL TOURISM DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Tourism Development Act of 1991".

(b) RURAL TOURISM DEVELOPMENT FOUNDATION.—

(1) FINDINGS.—The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) ESTABLISHMENT OF FOUNDATION.—In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(3) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(A) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(B) development of educational resources to assist in private and public rural tourism development; and

(C) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(4) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—

(i) COMPOSITION.—The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(I) during its first two years shall consist of nine voting members; and

(II) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(ii) APPOINTMENT.—

(I) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(II) The voting members of the Board, other than those referred to in subclause (I), shall be appointed in accordance with procedures established by such bylaws.

(iii) QUALIFICATIONS.—The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(iv) TERMS OF OFFICE.—Voting members of the Board shall each serve a term of six years, except that—

(I) initial terms shall be staggered to assure continuity of adminsitration;

(II) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her precedecessor, that person shall serve only for the remainder of the pedecessor's term; and

(III) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(B) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the Naitonal Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(C) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(D) MEETINGS; QUORUM; OFFICAL SEAL.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at anyone time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(5) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(6) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(B) GIFTS, DEVISES, AND BEQUESTS FOR BENEFIT OF INDIAN TRIBES.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(7) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(8) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(9) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(10) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(11) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(B) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(C) TREATMENT AS FEDERAL EMPLOYEE.—Neither an officer or employee hired under subparagraph (A) nor an individual who provides services under subparagraph (B) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(12) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(13) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(14) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $50,000 to—

(A) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(B) provide administrative services for the Rural Tourism Development Foundation.

(16) DEFINITIONS.—As used in this section, the term—

(A) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(B) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(C) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(D) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(17) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

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

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism."

Mr. BURNS. Mr. President, last year, the Senate passed the Rural Tourism Development Foundation as part of S. 1791, the Tourism Policy and Export Promotion Act of 1991. The Senate Commerce, Banking, and Surface Transportation Committee leadership supports this amendment.

The Foundation is a nonprofit, nongovernment-managed, privately funded entity that would finance planning, development, and implementation of programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America.

Financing would be available for Federal land management agencies, private enterprises, State, local and tribal governments, and other entities that promote rural tourism destinations abroad.

The Foundation supports S. 1204's efforts to use transportation spending for rural tourism development. S. 1204 creates a FHWA new Scenic and Historic Byways office and an all American roads program. Outstanding roads would be promoted to enhance rural tourism, economic development, and world-class tourism destinations.

Federal law prohibits Federal agencies from printing or distributing materials or marketing public lands abroad. The Foundation would be able to support international marketing efforts, as well as, public-private partnerships to supply road users information.

In addition, S. 1204 authorizes a $2.3 billion Federal Lands Category Program that supports public lands highways, including forest roads, U.S. Parks and parkways, and Indian reservation roads.

Though a substantial funding increase over 1987 program levels is provided, the amounts are insufficient to meet actual needs. A major Foundation goal is to promote lesser-known tourism destinations and to divert domestic and international travelers away from overcrowded facilities.

This not only affords national protection to popular attractions such as Yosemite, but allows Federal land dependent communities an opportunity to expand their local economies.

AMENDMENT No. 298

On page 37, line 18, insert the following after 'title'.":

(4) Section 204 of title 23 United States Code, is amended by striking subsection (h) and inserting instead:

Subsection (h) funds available for each class of Federal Lands Highways may be available for the following:

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) acquisition of necessary scenic easements and scenic or historic sites;

"(5) provision for pedestrians and bicycles;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

Section 205(c) is amended by striking $15,000 in 4 places and inserting in lieu thereof $50,000.

FEDERAL LANDS AMENDMENT

Mr. BURNS. Mr. President, this amendment amends section 111 of S. 1204 with language from a bill I introduced earlier this year, S. 540. I am pleased to have Senator SYMMS as a cosponsor of this amendment.

This amendment encourages, but does not require, States to select Federal land projects that implement Federal tourism and recreational travel initiatives as part of an overall transportation investment strategy. Specific statutory reference is provided for the existing Forest Scenic Byways Program, BLM Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

The amendment also lists specific project enhancement costs, such as interpretive signage, acquisition of necessary scenic easements and scenic or historic sites, and appropriate public road facilities as determined by the Secretary as eligible costs.

The amendment is compatible with other S. 1204 provisions that create a FHWA Scenic and Historic Byways Office and Program, and provide States more flexibility in spending road grants on transportation enhancements.

Under existing law, the Secretary of Agriculture is provided road administrative costs to defray expenses incurred under the Federal Land Forest Highways Program. That amount is approximately $500,000 per year. For equity, administrative costs are extended to the Secretary of the Interior to cover Bureau of Land Management costs.

Finally, the amendment will raise the dollar amount that the Federal Government could spend per mile for trail improvements. The amount is raised to $50,000 from $15,000 per mile to reflect higher prices. This will allow the Federal Government to participate in more public-private partnership arrangements.

The real purpose of this amendment is to provide a framework under which the public lands category can play a role in developing a transportation infrastructure to support a rural tourism economy.

Tourism generates jobs and tax revenues, and it is an industry in which America is globally competitive. Access to Federal tourist and recreational sites is particularly important in the west where an average of 50 percent of all land is federally owned.

I hope that my colleagues will support this important amendment.

Mr. President, section 111 substantially increases the Federal Lands funding levels. Though as indicated by S. 1204's report language, that level falls far short of actual need. Section 111 combines the forest roads and public land highways into one account, but appears to keep the existing project selection criteria for diverse road needs. How would this program operate under the modifications?

Mr. SYMMS. Sixty-six percent of the money would be allocated to Forest Service regional offices based on forest highway criteria. The remaining 34 percent would be available under national competition for forest or public roads. Currently, forest road grants are limited to a 25,000-mile State-local road network in 41 states. The new public land highways definition includes the existing forest road definition and accompanying regulations except that forest road projects are no longer restricted to the 25,000-mile network. Federal grants can be spent on any type of road as long as it is open to public travel. Under the public lands highway discretionary money, only projects which are bound on both sides by federal land ownership are eligible. This contrasts with forest road projects which are often bound by privately-held property or a mixture of road ownership patterns.

Existing rules governing project selection for forest road and public land highway are retained. For forest roads, the State, Forest Service and FHWA meet each year to discuss a 5-year project program. Forest road projects must meet six criteria: First, the development, utilization, protection, and administration of the National Forest System and its renewable resources; second, the enhancement of economic development at the local, regional, and national level; third, the continuity of the transportation network serving the National Forest System and its dependent communities; fourth, the mobility of the users of the transportation network and the goods and services provided; fifth, the improvement of the transportation network for economy of operation and maintenance and the safety of its users; and sixth, the protection and enhancement of the rural

environment associated with the National Forest System and its renewable resources.

For public lands highway, the guidelines are much broader. As with forest roads, the project must bear a relationship to Federal land and resource management plans. Other factors, such as traffic carrying capacity, adequacy of the State and Federal agency transportation plans with regard to route continuity, capacity, safety and the construction timetable are considered.

Mr. BURNS. It is my understanding that the Administration discontinued the public lands discretionary account because States were nominating forest road projects over other roads adjoining other Federal land agencies. That in part may reflect State interest in reducing the $4 billion in unmet forest road needs. The main reason, however, is that only the Forest Service participates formally in the Federal lands project nominating process. What can be done to provide BLM more representation without a major change in the regulations?

Mr. SYMMS. Section 111 modifications were patterned after Idaho's collaborative interagency approach in nominating projects. If the Senator's main concern is getting BLM community interests on the table when the State and Forest Service are discussing project priority. That could be easily accomplished. The Secretary could establish a procedure to notify all Federal land agencies that public lands highway discretionary funds are available. Each State and all Federal land agencies could then work toward a 5-year project list that would provide an appropriate state balance between forest roads and other public lands highways.

Mr. BURNS. Would that require statutory language?

Mr. SYMMS. No, the Secretary could establish that procedure based on legislative history. Does the Senator from New York agree the Secretary should notify all Federal land agencies when the public lands highway funds are available for national competition?

Mr. MOYNIHAN. Yes, I think that would be appropriate.

Mr. SYMMS. Section 111 report language encourages States to develop a public lands highway investment strategy to target limited dollars. That strategy may include continued use of the 25,000-mile forest road network and the creation of a BLM-State designated system that would include adjoining State and local roads that provide access to BLM property. States may wish to use the guidelines used to establish the forest road network and project selection criteria to define the scope of the BLM network.

Mr. BURNS. I agree that States should use an investment strategy to target Federal lands funds. Under my amendment, States would be encouraged, but required to select projects that implement Federal tourism and recreational travel strategies. Specific statutory reference is provided for the Forest Scenic Byways Program, BLM Back Country Byways Program, National Trail System Program and other similar Federal programs that benefit recreational development. The amendment also lists specific project enhancement costs, such as interpretive signage, acquisition of necessary scenic easements and scenic or historic sites, and appropriate public road facilities as determined by the Secretary as eligible costs.

Under existing law, the Secretary of Agriculture is allowed administrative road cost for forest roads, approximately $500,000 per year. Program costs would be extended to the Secretary of Interior for BLM roads. In addition, the amendment would raise the dollar amount that the Federal Government could spend per mile for trail improvements. The amount is raised to $50,000 from $15,000 per mile to reflect higher prices. This would allow the Federal Government to participate in more public-private partnerships.

Mr. MOYNIHAN. I have no objection to your amendment.

Mr. SYMMS. I accept the amendment and would be interested in being listed as a cosponsor.

AMENDMENT No. 299

At the appropriate place, insert the following new section:

SEC. . EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code is amended by adding in an appropriate place the following new section:

"Education and Training Program.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will: (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program; (2) identify, package and deliver usable highway technology to local jurisdiction to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; (3) establish, cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance programs centers: *Provided*, That not less than four centers be designated to provide transportation assistance that may include, but not necessarily limited to, a "circuit-rider program, training on intergovernmental transportation planning and project selection, and a tourism recreational travel component to American Indian tribal governments.

"(2) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8 million per fiscal year for the fiscal years 1992, 1993, 1994, 1995, and 1996 is authorized to be appropriated from the highway account of the highway trust fund for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5 million is authorized to be appropriated from the highway account of the highway trust fund to establish and carry out a tourism and recreational travel technical assistance program in nonurbanized areas to remain available until expended.

Mr. BURNS. Mr. President, this amendment provides a statutory base for a Federal Highway Administration [FHWA] Technology Transfer Program, commonly known as the Rural Technical Assistance Program [RTAP].

RTAP packages and markets road technology for local officials through a national clearinghouse and 48 State centers.

FHWA and the American Association of State Highway and Transportation Officials would like to expand the Technology Transfer Program to urban areas up to 1,000,000 in population to provide urban engineers access to new design, engineering and construction technology. FHWA believes that existing centers could cover urban needs up to the 1,000,000 population cutoff without affecting the integrity of the Rural Program. This also will help those areas deal with certain MPO and congestion mitigation requirements included in S. 1204.

The amendment also adds a national tourism and recreational travel component to support S. 1204's National Scenic and Historic Byways Office and program initiative as well as other tourism and recreational enhancement language included by Senator SYMMS and hopefully some by myself. This language is also adapted from my bill, S. 540.

"Transportation issues relating to travel and tourism," according to the Center for the New West, a Denver-based research group, "often raise sensitive and significant community issues."

A scenic highway designation, for example, may require protection of natural landscapes and cultural characteristics of the area. That, in turn, may affect road maintenance and vegetation policy, require zoning pertaining to road-side development, and affect heavy commercial traffic.

Under this amendment, RTAP will provide small communities access to expertise and a framework in which to resolve these issues.

The amendment also directs FHWA to provide special services to native Americans through four RTAP centers.

Unfortunately, native American participation in the RTAP has not been extensive outside of the Bureau of Indian Affairs. To overcome this problem, the Secretary is instructed to designate four centers to provide Indian tribal governments special services. At a minimum, these services shall include a "circuit-rider" program, training on intergovernmental transportation planning and project selection, and a tourism recreational travel component.

Finally, the amendment recommends an $8 million per year authorization—double current level—from the highway trust fund for the rural and urban programs.

In the past, FHWA has supplemented each center's operation with its administrative funds. Their funding has diminished in recent years from $125,000 to $90,000 per center as more centers have come on-line. OMB has denied FHWA's budget request for a $6 million rural program and urban expansion due to lack of a congressional directive.

This amendment provides that directive along with an additional $2 million for updating training material and for the native American services. A one-time $5 million authorization is provided to develop training material for the tourism component.

I encourage my colleagues to support the amendment. Nearly 57 percent of the Nation's 3.9 million miles of road network is operated by counties, towns, and townships. Most of those roads are virtually ineligible for Federal aid.

The RTAP is a low-cost approach of extending local government buying power. In addition, with the increased emphasis on facility management, urban areas will benefit from FHWA's Technology Transfer Program. The administration's bill and S. 1121 include the basic technical assistance amendment, and I hope my colleagues will accept it as a part of S. 1204.

Mr. BURNS. Mr. President, I ask unanimous consent that amendment No. 299 be modified, and we will modify that before final adoption.

AMENDMENT NO. 299, AS MODIFIED

The PRESIDING OFFICER. Without objection, the Senator has submitted his modification to his amendment 299. That modification will be so incorporated.

The amendment No. 299, as modified, is as follows:

S. 1204 is amended by adding in an appropriate place the following new section.

SEC. . EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding in an appropriate place the following new section:

"EDUCATION AND TRAINING PROGRAM.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will: (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers: *Provided*, That not less than four centers shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a "circuit-rider" program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8 million per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5 million for the fiscal year 1992 shall be set aside from such administrative funds to establish and carry out a tourism and recreational travel technical assistance program in non-urbanized areas. Funds to carry out this section shall remain available until expended.".

Mr. BURNS. Mr. President, these three amendments are related to my efforts to develop an infrastructure that supports our Nation's tourism industry. For the first time in 1990 this country recorded a trade surplus of some $900 million from foreign travel expenditures, foreigners spending money in this country to see America and what it has to offer.

From a rural perspective I am here to say America has more to offer than Washington, DC, and Disneyland, but we need an adequate infrastructure on which to build our rural tourism economy and a forum with which to promote it to our foreign friends.

These three amendments I am offering today will put us on the road toward meeting these goals. Two of them are adapted from a bill I introduced earlier in Congress, and that bill was S. 540. One provides funds for planning, design, and construction of roads and trails that support tourism and recreational travel on our public lands highways.

The other establishes, among other things, a tourism and recreational travel component with the existing RTAP program.

The third amendment creates a rural tourism development foundation through which private sources can provide the resources needed to help Federal land agencies promote America's natural tourist and recreation sites on Federal lands.

I believe these three amendments complement the provisions in the bill which already aids the development of rural tourism, and I thank the managers for including these important provisions.

In particular, I want to compliment Senator SYMMS on his national recreation trails trust fund title. I was an original cosponsor of his bill, and am a strong supporter of this concept.

I ask that amendments 297, 298, and 299 be agreed to en bloc.

The PRESIDING OFFICER. Is there objection to agreeing to the three amendments en bloc?

Without objection, it is so ordered.

The amendments (Nos. 297, 298, and 299, as modified) were agreed to en bloc.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 300

(Purpose: To permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself, Mr. DOLE, Mr. NICKLES, Mr. GRASSLEY, Mr. SYMMS, Mr. CONRAD, Mr. HATCH, Mr. SIMPSON, Mr. STEVENS, Mr. PRYOR, Mr. MACK, Mr. HELMS, Mr. EXON, Mr. DASCHLE, Mrs. KASSEBAUM, Mr. WALLOP, Mr. MCCAIN, Mr. BAUCUS, Mr. COHEN, Mr. BENTSEN, Mr. BROWN, Mr. WIRTH, Mr. DIXON, Mr. BREAUX, Mr. KERREY, Mr. GARN, and Mr. COCHRAN, proposes an amendment numbered 300.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . COMMERCIAL DRIVERS LICENSE WAIVER.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

COMMERCIAL DRIVERS LICENSE WAIVER

Mr. BURNS. Mr. President, this amendment is identical to a bill I have introduced, S. 715, which currently has 51 cosponsors. I ask unanimous consent that a list of cosponsors be printed following my statement.

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

(See exhibit 1.)

Mr. BURNS. In addition, the following Senators have asked to specifically cosponsor this amendment: Senators DOLE, NICKLES, GRASSLEY, SYMMS, CONRAD, HATCH, SIMPSON, STEVENS, PRYOR, MACK, HELMS, EXON, DASCHLE, KASSENBAUM, WALLOP, MCCAIN, BAUCUS, COHEN, BENTSEN, BROWN, WIRTH, DIXON, BREAUX, KERREY, GARN, and COCHRAN.

The purpose of this amendment is to bring much needed regulatory relief to the farm community in my State and other agriculturally based States.

It does this by giving States the authority to waive commercial drivers license [CDL] requirements included in the Commercial Motor Vehicle Safety Act of 1986 for vehicles used to transport farm supplies from retail dealers to or from a farm whether or not such vehicles are operated by a farmer. This amendment also extends the same waiver authority to States for vehicles used for custom harvesting.

I believe that the excellent safety record for farmers holds true for agribusinesses and their employees as well as for custom harvesters and their employees, and that they should be extended the same opportunity for exemption from CDL requirements. The safety concerns addressed in 1986 law are certainly legitimate, and I am in no way attempting to undercut them.

I want to be very clear on that point. This is not a Federal exemption of those requirements. All this legislation does is give the States—which are more familiar with the way our rural farming economies work—the opportunity to waive CDL requirements if they determine that the safety concerns can be met without them.

All I am asking the Senate to do is give the States whose farming economies are disrupted by the CDL requirements an opportunity to exempt farm retailers and custom harvesters from them.

I think this is a reasonable amendment and I urge my colleagues to support it.

EXHIBIT 1

Currently: 22 Democrats; 29 Republicans.

Total: 51 cosponsors.

Adams, Baucus, Bentsen, Biden, Bond, Boren, Breaux, Brown, Burdick, Coats, Cochran, Cohen, Conrad, Craig, Daschle, Dixon, Dole, Domenici, Exon, Ford, Fowler, Garn, Gramm, Grassley, Harkin, Hatch, Heflin, Helms, Johnston, Kassebaum, Kasten, Kerrey, Lott, Lugar, Mack, McCain, McConnell, Nickles, Nunn, Pressler, Pryor, Sanford, Seymour, Shelby, Simpson, Smith, Robert C., Specter, Stevens, Symms, Wallop, and Wirth.

COMMERCIAL DRIVERS LICENSE

Mr. DOLE. Mr. President, I rise once again as an original cosponsor of this important measure to aid American agriculture. This year we have 51 cosponsors and once again, the Senate stands on the verge of approving commercial drivers license waiver language without a clear prospect about what lies ahead in the House. Having blocked this commonsense legislation on several occasions, it is my sincere wish that farm State Members of Congress will make every effort to see that this legislation is approved.

As my colleagues know, this measure will allow States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm; to vehicles used for custom harvesting; and to vehicles used to transport livestock feed, whether or not such vehicles are controlled or operated by the farmer.

Nearly 2 years ago, the U.S. Department of Transportation gave States the authority to waive commercial drivers license rsequirements for farm vehicles under the Motor Vehicle Safety Act. Unfortunately, DOT did not recognize when granting this waiver that the majority of these particular seasonal agricultural activities were carried out by agricultural retail outlets, not necessarily by farmers.

DOT failed to recognize the importance of the custom harvesting industry, which many farmers rely upon to harvest a seasonal, perishable crop. The same is true for livestock feed operations which provide a cost-effective service for farmers and cattle producers.

These industries are markedly different from commercial trucking operations. Most of the driving is done off-pavement. They differ from other for-hire carriers because they only provide the initial transportation of grain from the field to storage, or to market, or to feedlots. These trucks average 15,000 miles per year and cannot be considered in the same category as commercial, long haul trucking operations.

Mr. President, farmers face enough of an economic hardship without needlessly increasing operation and transportation costs. This measure is not an exemption from commercial drivers license requirements, rather it is a commonsense approach to give States the ability to set reasonable requirements for drivers of farm vehicles—who have an excellent safety record. It is quite probable that if this measure is not adopted, crops will go unharvested, farmers will find themselves short of needed supplies, and livestock producers will find themselves unable to secure adequate feed supplies.

Mr. President, this measure has more support today than it ever has. As we endeavor to pass this for the third time in 2 years, I call on my colleagues in the House to pass this measure as soon as possible.

The PRESIDING OFFICER. Is there objection to agreeing to Amendment No. 300?

Without objection, it is so ordered.

The amendment (No. 300) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BURNS. I thank the Chair.

AMENDMENT NO. 301

(Purpose: To direct the Secretary of Transportation to review current federal highway access to border crossings between the United States and Canada)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 301.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. . BORDER CROSSING STUDY.

"(a) The Secretary of Transportation shall conduct a review of current federal highways that access border crossings between the United States and Canada in order to: (1) determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion; (2) assess their ability to accommodate increased transfer of commerce due to the United States-Canada Free-Trade Agreement; and (3) assess their ability to accommodate increasing tourism-related traffic between the United States and Canada. The review shall specifically address issues related to the alignment of United States and Canadian highways at the border crossings, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

"(b) The Secretary shall issue a report of the findings of this review to the Senate En-

vironment and Public Works Committee and the House Public Works Committee within 60 days after the date of enactment of this Act."

Mr. BURNS. Mr. President, this amendment directs the Secretary of Transportation to review current Federal highways and access border crossings between the United States and Canada. Being a border State, we get a lot of these kind of complaints. We have a problem with our Sweetgrass border crossing in northern Montana.

The review's purpose is to determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion particularly in relation to the United States-Canada Free-Trade Agreement and increasing tourism-related traffic between the United States and Canada.

The review must look at issues relating to the alignment of United States and Canadian highways, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays and related parking improvements.

The primary purpose of this amendment is directed at a particular situation in Sweetgrass, MT. The highway on the U.S. side is unsafe and dangerous at the Sweetgrass crossing. Local officials estimate that this section of highway is in violation and conflict with 35 FHWA regulations.

The situation must be resolved as it is having a negative impact on the flow of commerce and travel between the United States and Canada. Because of current delays, many clients are rerouting their products thus harming both Montana's and Alberta's trading economies.

To date, FHWA has not cooperated with the interested parties to resolve the problems at the Sweetgrass crossing.

It is my hope that this review will encourage FHWA to help resolve these issues.

I am pleased that my colleagues are willing to accept this amendment and thank them for their cooperation.

It is my understanding from local sources that some 35 Federal highway regulations are currently being violated on a regular basis at the Sweetgrass crossing. Naturally, the problems go beyond, though within, the scope of the Federal Highway Administration, and the State is working to resolve some customs issues with the Province of Alberta.

However, the FHWA does have an appropriate role and needs to look at some of the specific issues outlined in my amendment.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 301) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I thank my colleagues for working with me on these issues. I think we have done two good things. The overall goal of this bill is to make our transportation efficient and make it serve the interests of our country.

I thank Taylor Bowlden on Senator SYMMS' staff, Senator CHAFEE'S staff, and the rest of the staff, for helping make these amendments possible. This will add to the transportation makeup of our country.

I yield the floor.

Mr. SYMMS. Mr. President, I thank the Senator from Montana for his tireless work and his interest in this legislation. The junior Senator from Montana is not on the committee, as his senior colleague is, but he has been interested in everything we ever did and has worked with us on the legislation.

We appreciate his willingness to make some changes in his amendments to conform to what we thought was appropriate for the bill. I compliment him for the work he did on the amendments, and I thank him very much.

Mr. President, I note that Senators are continually asking me what is going to happen, and when is the next vote going to be. I might say to my colleagues that I have another amendment that I will soon introduce. We have, of course, the one big amendment pending, the Byrd amendment, and possible modifications to that, if agreements can be reached on the problem of minimum-allocation States. I do have an amendment that I will be prepared to offer.

I am not going to ask unanimous consent to set aside the Byrd amendment at this point. But I might announce to my colleagues that I have an amendment that I believe will be noncontroversial and will be accepted by the committee. So I will just take this opportunity to explain the amendment.

This amendment would make uniform the requirements of S. 1204 relating to the division of surface transportation funds between the metropolitan and nonmetropolitan areas, the additional planning requirements imposed on metropolitan areas. When my colleagues and I, and the committee leadership, introduced S. 965, which is the predicate to S. 1204, the provision requiring the division of funds between the metropolitan areas and nonmetropolitan areas, imposing additional planning requirements for metropolitan areas, were applicable to any urban area over 50,000 in population.

Based on the concerns of myself and others of our colleagues, and of several of the witnesses that came before the committee at the committee hearings on the bill, we modified these requirements to apply only to metropolitan statistical areas over 250,000, and any area over 50,000 in population in nonattainment—with over 50,000 in population, that was in nonattainment for ozone and carbon monoxide.

My amendment would strike the language relating to the urbanized areas in nonattainment, so the required division of the surface transportation funds and additional planning requirements would be applicable only to the metropolitan areas, MA's, of over 250,000 in population. These small communities of 50,000 in size really do not have the capacity to have the metropolitan planning areas. So States will continue to program projects in those small urban areas in nonattainment.

But I believe it may be unwise to lump those in with the larger communities, the metropolitan areas, in terms of planning requirements and responsibility for project selection, and that is why we oppose them. This is an important amendment. It would give the States greater flexibility to establish project priorities on a statewide basis, and it is in keeping with the philosophy on which this legislation is based.

I hope when I get prepared, and the distinguished manager of the bill returns to the floor, that this amendment will be accepted, and this explanation can complete that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SYMMS. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily laid aside.

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

AMENDMENT NO. 308

(Purpose: To eliminate the required distribution of funds and additional planning requirements for small urban areas in nonattainment for ozone and carbon monoxide.

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 308.

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

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

The amendment is as follows:

On page 15, strike after "thousand" on line 19 and continuing through "thousand" on line 23; and

On page 47, strike "And Nonattainment Areas Over 50,000 Population" beginning on line 17; and strike the language beginning after "State" on line 21 and continuing through "State," on line 24.

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I rise in support of the funding formulas included in the legislation as reported by the distinguished chairman of the Environment and Public Works Committee.

The concept of a seemingly disproportionate distribution of funds between the States is not unique to Federal highway programs. Many Federal programs distribute funds to State and local governments, to individuals and directly to private enterprises. As an illustration I invite our colleagues' attention to a report prepared by the U.S. Department of Commerce, entitled Federal Expenditures by States for fiscal year 1989.

Mr. President, while these statistics are general in nature, I think they serve to make a valid point.

This publication gives the Commerce Department's best estimate of the distribution of Federal spending between the States, and includes tables which compare this distribution with the Department's 1989—and I emphasize 1989 population estimates. I think it puts the current discussion of a State's return on highway dollars into some realistic perspective.

Nevada, a donee State under the highway program, accounted for about four-tenths of a percent of the Nation's population, and received four-tenths of a percent of the Federal Government's total expenditures—a reasonably fair return. That is the sum composite of the all, the expenditures as outlined in this document, Federal expenditures by State for fiscal year 1989.

Some States, however, do better overall, including several of the donor States under the highway program. Virginia, for example, has 2.4 percent of the population, but received 3.4 percent of Federal expenditures. Another donor State, Missouri, has 2 percent of the population, but received 2.5 percent of Federal expenditures.

Mr. President, I could go on at considerable length to cite the statistics contained in this Government document.

Supporters of changes in the formula point out that donee States such as Nevada receive a slightly higher share of highway funds than our population may dictate. While this is true, I will point out later that there is a justification for this situation. What supporters of changes in the formula fail to mention is that there are many programs where highway program donee States do not receive a proportionate share.

To use the State of Nevada as an example, our State receives less than the four-tenths of 1 percent our population would entitle us to receive for several programs, including but not limited to child nutrition programs, education funding for the disadvantaged, Medicaid payments, AFDC payments, CDBG funds, mass transit funds, Medicare hospital insurance payments, food stamps, Pell grants, and national guaranteed student loan interest subsidiaries, to name but a few.

States that receive disproportionate funding under these programs would probably argue that they have greater needs than other States, and that these needs are not reflected in a simple statistical analysis when population alone is considered. While this is not the time to address the distribution of funds for all of these programs, I would agree that there are many factors which go into distribution of Federal funds which are not easily measured.

As these statistics show, there are disparities in the distribution of Federal funding between the States for many programs. I do not raise this issue to claim that Nevada deserves more funds from each of these programs—although that may be true for some of them. I raise this issue to show that no Federal program has the same effect on every State, and that disparities will inevitably occur in any formula that may be adopted.

The advocates of the current effort to provide a more direct return to States for highway trust fund dollars claim their proposal will make the program more fair. In fact, the targeting of the highway program for this type of treatment is just the opposite—it is remarkably unfair to States that depend heavily on highways and that depend heavily upon the Federal Government to fund these highways.

While statistics do show that some States receive a greater return on dollars contributed to the trust fund, such variations are not as great as the sponsors of the proposed changes would have us believe. A FHWA table inserted into the RECORD last week by the manager of this legislation shows that over the life of the Interstate Program, only 12 States have received back less than $1 for every dollar contributed to the trust fund.

The average return on the dollar for these 12 States was 90 cents. Due to the nature of the highway program, it is not surprising that greater disparities can arise in any particular year. As our distinguished senior Senator from New York has pointed out, however, the historical pattern is not nearly as inequitable as the proponents of this legislation have claimed.

Supporters of formula changes maintain that they do not receive back their fair share of the Federal investment in roads and highways. While it is true that some States receive back fewer dollars than they contribute, the return on motorist's investment in infrastructure cannot be measured in dollars alone. We all share an interest in a national transportation system, and what one State may appear to lose in dollars it gains in the rapid and free movement of goods and people across this vast Nation of ours.

My home State of Nevada is one of the best examples of the type of State that depends on the donor-donee relationship. In land area, Nevada is the seventh largest State in the Nation. By population, Nevada is one of the smallest States in the Nation. While Nevada has grown rapidly over the past decade, and is currently the fastest growing State in the Nation, most parts of the State are still very sparsely populated.

Many advocates of changes in the funding formulas concede the need for a variable distribution of highway funds during the construction of the interstates. My objection to this line of argument is simple: the completion of the interstates does not end the national interest in highways. Many of these interstates were built several decades ago and in many cases need to be reconstructed.

Nearly every major highway project on the State of Nevada's list of highway priorities involves one of the interstates. Many advocates of formula changes have conceded that the donor-donee relationship can be justified on the basis of the construction of the interstates—the same argument should apply to the maintenance and reconstruction of the interstates.

In addition, the national interest in highways goes beyond the interstates. While the interstates may carry the bulk of traffic between the States, other Federal aid roads are every bit as important. Travelers and goods which need to travel on the interstates need to get to the interstates. The maintenance of these roads is also in the national interest, and must be part of any national highway program.

So-called bridge States such as Nevada depend upon the assistance of donor States for the maintenance of its highways. In exchange, residents of all States, both donor and donee, enjoy the benefits of the national transportation system.

In addition to being one of the bridge States, and thus an important part of the national transportation system, Nevada has an additional claim on Federal highway funds. Over 85 percent of Nevada is owned by the Federal Government, and the Federal Government's activities in Nevada place an additional strain on our transportation system.

In fact, given the emphasis in this debate on each State's return on their trust fund contributions, the high Federal presence in my State holds another disadvantage: most fuel used by the Federal Government is exempt

from the Federal gas tax. Thus, if this debate is to center around gas tax revenues a measure of highway use, the substantial highway use by Federal vehicles in Nevada would be completely ignored. I do not at this time intend to offer an amendment to correct it, but I do think that this type of concern points to the inadequacy of the arguments being raised in favor of the proposed formula changes.

There is an additional argument of this debate that has an especially troubling implication for me. While not explicitly stated, I am afraid that the false impression has been created that portrays donee States such as Nevada as the parasites of the National Highway Program.

Nothing could be further from the truth. Nevada's contribution to the National Highway System cannot be measured in dollars alone. In addition, I do not think that any State has made a greater State and local commitment to transportation than the State of Nevada. If we take into account the local option of the State gas tax, an option exercised by nearly every Nevada county, Nevada's cumulative gas tax if not the highest ranks at the top as being the most expensive in our Nation.

Most recently, the citizens of Clark County, where Las Vegas, the principal center of population is located, approved a referendum that will raise $100 million in additional tax revenues for transportation improvements. In Nevada, and I expect in most other donee States, we are doing all that we can on the State and local level to protect and expand our investment in transportation infrastructure.

Finally, there is one change to the formula included in the committee bill which I am inclined to support, which I do not believe is inconsistent with my previous remarks. Once we agree to a distribution formula, we need to use the most recent available data to distribute the funds. Most of the factors which are used under current law, and are thus included in the committee's funding formula, are updated on a yearly basis.

These factors include vehicle miles traveled, land miles, land area, and postal route miles. The one factor which is not updated every year is population. Under the committee's proposal, census data from 1980 would be used for the next 5 years. Since 1990 data will be available to use for most of the years of the reauthorization, it should be used for the reauthorization formula and the distribution of funds under that reauthorization formula.

Mr. President, the funding formulas contained in the committee's bill are fair to all States, and reflect the importance of a National Highway Program, and should be approved by the Senate.

Mr. President, I thank the Chair.

If none of my colleagues seek recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 308

Mr. MOYNIHAN. Mr. President, I believe the pending business is an amendment by the Senator from Idaho.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, there being no objection on this side on the part of the manager, and having been offered by the manager on the other side, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 308) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. MOYNIHAN. Mr. President, there being no Senator seeking recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, may I say on behalf of my esteemed colleague and comanager at this point that the bill is open to amendment. We will ask unanimous consent that the pending Byrd amendments be laid aside, and Senators who wish to offer amendments are encouraged to come to the floor at this point and we will see if we cannot accommodate them, and we will certainly hear them all out.

Pending such an event, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, I take this opportunity to say to Senators that the bill is open to amendment and it is moving rapidly to a conclusion. We have from the President a very legitimate request that we enact this legislation. He asked it be done by 100 days. If we finish our work here today, it is not to be excluded as a possibility that the House might take the Senate bill or act on its own bill and we will go to conference and we will meet the Friday deadline. But that being exigent and important, Senators should know that if they do not come to offer their amendments they might find that the bill has passed them by. We do not want that to happen. We do not want to close out anybody.

I see my esteemed coworker here has risen. I wonder if he does not share my view.

Mr. SYMMS. Absolutely, Mr. President, I might just say that we have sat here now for well over an hour waiting for Senators to come and offer amendments. At 10 o'clock tonight, Senators will be wondering when we can adjourn.

I see Senator SIMPSON is here. He has an amendment.

I yield back to the floor manager and we can start on with the Senate's business.

Mr. MOYNIHAN. Mr. President, we are very happy to see the assistant Republican leader here from the great State of Wyoming, which receives, on a per capita basis, the second highest share of any State of the highway trust fund, one that is perhaps a tribute to the size of the State of Wyoming. We look forward to the amendment. He can be assured that it will be favorably regarded, I believe, on both sides of the aisle.

Mr. SIMPSON. Mr. President, it is always a joyful thing to walk into the Chamber and be received so magnificently, so generously and kindly by my friend from New York and my friend from Idaho.

We do consider ourselves extraordinarily fortunate because of the Great Compromise that went on in this Chamber many years ago, because it gave Wyoming the same vote as New York. And the pleasure of that has been working with the Senator from New York since I have been here, since 1978, when I was elected, came here in 1979, and then Senator SYMMS joined us the next term.

The Senator from New York and the Senator from Idaho, I say again—and it is not because of what is in here for Wyoming.

We are a State with three Interstate Highway Systems. And the Senator from New York knows so well, and the Senator from Idaho, that everybody in the United States uses them. We are a tourism State. We have I-80, I-90, and I-10. I would think it is one of the largest in mileage of interstates of any interstate in the United States.

So it is true about the per capita money we receive from the program.

But this is a National Highway System, and we are very pleased to have the New Yorkers and the Iowans and the Illinoisans come to Wyoming whenever, bringing money and other attributes. We will treat them very fairly. But we have been treated fairly here.

I think, when you consider we have here two senior Senators, from a most populous State and one of the least populous, and that they have worked for years together, trying to formulate various highway measures and present them to us, I think they have done a very special job.

AMENDMENT NO. 309

(Purpose: To provide for a study on the disadvantaged business enterprise program)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for himself and Mr. WALLOP, proposes an amendment numbered 309.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprises that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10% participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10% participation, as described in paragraph (2).

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

Mr. SIMPSON. Mr. President, let me quickly dispose of this, I hope. This is with regard to the disadvantaged business enterprise issue. These are known as DBE's. They are guaranteed not less than 10 percent of all amounts authorized to be appropriated under the highway bill.

A DBE, disadvantaged business enterprise, includes minority-owned businesses as well as women-owned businesses. Although the program, some say, smacks of quotas and invites, also, allegations of reverse discrimination, most States do meet the 10 percent DBE setaside. Even the State of Wyoming, in which it is sometimes difficult to perceive how we could meet it because we have a very low percentage of blacks—we have a sizable percentage of Hispanics, many more Hispanics than we have Native Americans—but sometimes it is very tough for us, in the past, to meet the DBE requirements. But we have met those and our highway department has done an excellent job of straining to do that since the program began in 1984.

Although the DBE program sets, I think, a very laudable goal, which I support, of assisting truly disadvantaged businesses, there is great concern, I think, that there may be abuse within the program and that it really is not helping the way it might have been intended.

The businesses are out there but they continue to be undercapitalized and underfunded. There is a very high turnover. Some States like Wyoming lose in-State business to out-of-State contractors in order to meet the DBE requirement.

So, I think it is a program requesting and calling for some oversight from us. That is the purpose of this amendment.

We all have certain questions and concerns but the data is just not there to answer us. This amendment will provide a number of answers, I hope. It directs the General Accounting Office to study five areas very briefly defined as this:

How many disadvantaged businesses actually graduate from the DBE program and go on to become strong and independemt companies? That is one.

Two: Which States lose in-State business to out-of-State contractors in order to fulfill the DBE requirement?

Three: What adjustments could be made with regard to training, meeting capital needs and bonding requirements—very important. Bonding requirements? DBE's sometimes say they cannot meet those requirements where the established contractor can. How do they do that, in order to prove the success of the program?

And, then, how do we determine the additional cost to the highway program, which is required to meet the DBE requirements?

Are we paying more to these disadvantaged businesses than we would pay to other businesses? I do not know.

But this study should help, somewhat, to answer that question. I presented it at the markup in committee. The two floor managers were aware of it.

I do not rise today in any opposition to the program. But I do have these questions, I think serious questions regarding how it is working; if it really is assisting the people in the manner in which it was intended, and if it is adversely impacting other folks in a way we had not intended.

So I hope this study will be helpful to all of us, addressing our questions and concerns. We can then go forward with any changes or alterations, once we have had these facts and figures presented before us.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on this side of the aisle, we welcome this amendment. If you believe in these programs, you want them to improve. If you want them to improve, you need to know more about them.

There is a wide range of questions that can be asked. Part of the elemental difficulty of allocating resources by ethnic group or gender group is that you can declare a group to be disadvantaged but you cannot address, very clearly, the individuals within that group. So, is the Hispanic Ph.D., graduate of engineering from the Colorado School of Mines—is that a disadvantaged person? Obviously not. Is that a group represented in these enterprises? Probably so.

But can we not learn more about it? We should never, never fear inquiry in these matters. To the contrary, what we should fear is the appearance of not wishing to know more than is known.

I would like to ask my friend, in the original draft there was a part C that would have prohibited the Department of Transportation from issuing the regulations, pending the receipt of the report. I believe that has been dropped, has it not?

Mr. SIMPSON. Mr. President, that provision has been dropped in the final draft. I want to commend the staff of the managers of the bill for assisting in

the drafting, in order to review that. That has been omitted.

Mr. MOYNIHAN. Mr. President, there is no objection of any kind on this side.

The PRESIDING OFFICER. Is there further debate? The Senator from Idaho.

Mr. SYMMS. Mr. President, I rise to offer my endorsement to Senator SIMPSON's amendment and encourage that it be immediately agreed to. I thank him very much for his efforts in this committee to help us get this bill this far along.

Mr. WALLOP. Mr. President, I am pleased to join my friend and colleague, Senator SIMPSON, in adding an amendment to S. 1204, the Surface Transportation Efficiency Act, to authorize a study of the Disadvantaged Business Enterprise [DBE] Program.

Recently, Senator SIMPSON and I were contacted by Don Schmalz, a subcontractor in Cody, WY, about two Federal highway contracts awarded with disadvantaged business enterprise [DBE] requirements. As my colleagues may be aware, current law requires that 10 percent of Federal contracts in each State in any fiscal year must have DBE participation. Mr. Schmalz submitted bids for subcontracts on two Federal highway projects, but was not awarded either because the prime contractors were required to solicit DBE's in order to meet the 10-percent goal. In both instances, Mr. Schmalz was also the low bidder, a factor which only served to add to his frustration.

In discussing these contract awards with the Wyoming Highway Department, concerns were raised that this 10-percent goal was set with little or no rationale for its justification.

We all agree that the use of minorities on Federal contracts should be encouraged, but this goal may be difficult to meet in States with a limited number of minority and women owned firms and/or a minority population of less than 10 percent. As a result, I would venture to guess that a large number of States are meeting this goal on a regional, rather than State-by-State basis. The study we are requesting of the General Accounting Office will focus on that particular issue.

In addition, this study will determine whether or not additional costs are borne by the Federal highway program in order to meet the 10-percent DBE requirement and request recommendations and suggestions for new criteria to use to determine performance and financial capabilities of firms necessary to perform the work of the contract. No further changes would be permitted in the DBE Program until the study is submitted to the Environment and Public Works Committee of the Senate and the Committee on Public Works and Transportation of the House.

While this study may not immediately address the specific problems of Don Schmalz and other small contractors, it is my hope that this study will make concrete recommendations to encourage necessary DBE participation, while more adequately reflecting a State's ability to meet the Federal contracting goals.

The PRESIDING OFFICER. Hearing no further debate, the question is on agreeing to the amendment.

The amendment (No. 309) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I thank the floor managers for their courtesy and their accceptance of the amendment. I most appreciate it.

Mr. MOYNIHAN. Mr. President, it falls to me once again to put Senators on notice that this bill is moving along. If it has moved out of this Chamber before certain amendments have been considered, it will not be for lack of effort on the part of the managers to hear anybody on any matter.

No one having appeared, we thank the Senator from Wyoming for adding to our work product for the middle of the afternoon.

Once again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 310

Mr. MURKOWSKI. Mr. President, I have an amendment to the Surface Transportation Efficiency Act relative to an amendment which I understand has been accepted concerning the Alaska Highway which would delete authorization for construction of the Alaska Highway in Canada. The authorization would be reinstated by my amendment.

The Alaska Highway is the only paved road connecting Alaska with the rest of the United States. That highway is still under construction, I might add celebrating its anniversary this next year.

The United States and Canada have agreed to construct and maintain the link between my State of Alaska and the remainder of the United States. But the agreement depends upon the authorization being deleted by S. 1204. This section of highway is funded from the general fund, not from the highway trust fund, and those funds pass directly to the Government of Canada rather than to the State of Alaska.

I do not have to elaborate on the strategic importance the Alaska Highway or the recognition that there is no land route without going through Canada to supply military goods and equipment to our military in Alaska as well as the critical contribution it provides for the economy of Alaska, as well as providing an opportunity for thousands of tourists to visit our State.

The funds for this amendment, again, are from the general fund, not the highway trust fund. The amendment does not allocate funds to the State; it provides funds to the Government of Canada, as I said.

I urge favorable consideration of the amendment which, as I have indicated, I understand has been cleared by the other side.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

AMENDMENT NO. 310

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside and the clerk will report.

Mr. MOYNIHAN. Mr. President, may I suggest the absence of a quorum, so we might inquire the details of the amendment?

The PRESIDING OFFICER. Is there objection? Hearing none, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I believe the desk has the corrected copy of the amendment. I thank my colleague from New York. The Senator from Idaho I believe has concurred in the amendment.

Mr. SYMMS. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 310. On page 102, strike item (16) of SEC. 125. ("Section 218, relating to the Alaska Highway").

Mr. MOYNIHAN. Mr. President, we have no objection to the amendment on this side.

Mr. President, the spirit of this law, as we hope and expect it will become, is that the States understand their own circumstances best and are properly held accountable for the use of their resources.

The Senator from Alaska has the enviable reputation in this body for knowing his State and knowing how he thinks it might best be run.

It is a unique State, not unique as yet quite comparable to another, but Alaska ranks first among all in size

and disparity of terrain. It is entirely within the spirit of this whole Surface Transportation Efficiency Act if Alaska chooses to expend its resources in this way as being the most efficient. That is fine.

We have no objection. To the contrary, we encourage this, understanding always whatever use it is, the States are accountable to their own citizens and to their own judgment.

The PRESIDING OFFICER. Is there further debate?

Mr. MURKOWSKI. I thank my colleague. I appreciate his understanding, and I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 310) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 311

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 311.

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

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

The amendment is as follows:

On page 38, section 112, TOLL FACILITIES, subsection (b) is amended to read as follows:

SEC. 129. TOLL FACILITIES.

(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities, provided that, for the purposes of subsection (d), the Federal share may be increased by a percentage of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a state are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities, provided that for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended.

Mr. MURKOWSKI. Mr. President, much of Alaska is made up of islands, the Alexander Archipelago in southeast Alaska and the Aleutian Island Peninsula. Alaska has more than 47,000 miles of coast line, and the Alaska Marine Highway connects most of the small towns and villages along this coastline to the rest of Alaska. For many people in Alaska, the Alaska Marine Highway is the only highway for many of the villages and towns in coastal Alaska.

The amendment that I am proposing, funds Alaska's ferry system in the same way that interstates and primary highways are funded. I emphasize that this amendment gives the State the option of spending STP funds for its ferry system with the same match of Federal funds as it does for other highways and roads in Alaska. This amendment does not increase the State's allocation of Federal highway funds.

The Alaska Marine Highway is vital to the economy and well-being of these towns and villages. People, food, cars, trucks, boats, the mail are all shuttled around the State by the ferry system. At ferry terminals in Alaska, you can see the hopes and dreams of a State. Families moving to the State, with their cars so loaded down they barely clear the ramp. The high school basketball team traveling to another town for a game. People going to town to shop, see the doctor, or conduct business. The Alaska Marine Highway is that link that ties the coastal communities together.

Each year, the Alaska Marine Highway carries 400,000 passengers and 110,000 cars, trucks, and vans. There are eight ferries coursing a 3,500 miles long route. The State budgets $70 million for the Alaska Marine Highway. Revenues for the system are about $35 million annually. The remainder comes from State and Federal funds, including a refurbishing fund established by the State in 1990.

The formidable terrain and excessive costs of connecting the numerous islands of Alaska has prevented us from building a tradition highway system.

I repeat, this amendment lets the State of Alaska use Federal funds for the Marine Highway in the same proportions as it uses Federal funds for other highways and does not alter the total allocation of funds to Alaska.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Mr. President, once again, to state that in the spirit of this law, this amendment is offered, and it speaks to the unique concerns of a State with such vast amounts of coastline. If some measure of ferry service is indicated, if that is the best mode of transportation, for the people of Alaska, so be it.

We endorse the amendment.

Mr. SYMMS. Mr. President, we endorse the amendment, also. I share the view of the distinguished floor manager.

Mr. MURKOWSKI. I thank the Senator from Idaho, and I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 311) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER.

AMENDMENT NO. 312

(Purpose: To take the Highway Trust Fund out of the calculation of the budget deficit)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 312.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . BUDGETARY TREATMENT OF HIGHWAY TRUST FUND.

(a) SHORT TITLE.—This section may be cited as the "Highway Trust Fund Improvement Act of 1991".

(b) EXCLUSION OF TRUST FUND FROM DEFICIT CALCULATION.—

(1) IN GENERAL—Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(A) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(B) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account).

(c) TRUST FUND TREATMENT IN THE CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall include allocations under section 302 of this Act of the outlays and revenue totals of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund, as described in subsection (b)(2) of the Highway Trust Fund Improvement Act of 1991, but shall not include such totals in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(d) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the 28th undesignated paragraph (relating to higher education facilities) the following new undesignated paragraph:

"Highway Trust Fund (20-8102-0-7-401; 69-8019-0-7-401; 69-8020-0-7-401; 69-8099-0-7-401;".

(e) APPLICABILITY.—Subsections (b), (c), and (d), including the amendments made by such subsections, shall apply with respect to fiscal years beginning after September 30, 1991.

(f) NOT DIRECT SPENDING.—This section and the amendments made by this section shall not be construed authorizing any direct spending as defined by section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. SPECTER. This amendment would require that the highway trust fund, the mass transit trust fund, be placed off budget so that the funds which have been allocated in trust for highway construction would be used for that purpose, and the funds allocated for mass transit would be used for that purpose.

This amendment is identical to one which was offered on April 25 on the budget resolution, which passed by a voice vote. When that amendment was offered, it awaited its turn, and it came up late on a Thursday evening. The amendment was accepted, but it seems to me that we need to put this matter on the record in legislation where it would make it binding on the fiscal policy of the United States.

The potential problem raised by this amendment is that it has a budget impact in terms of the effect on the deficit, because, at the present time, there is substantial funding which is used for accounting purposes. You might call it a double entry, but you really would call it two sets of books, which gives a false appearance of what the deficit really is.

Mr. President, at the beginning of fiscal year 1991, under CBO baseline assumptions, the total unexpended balance of the highway trust fund was $16.8 billion: $9.6 billion in unexpended funds from the highway account of the trust fund, and $7.2 billion in the transit account.

By the end of fiscal year 1991, it is estimated that there will be $19.6 billion, with $11.1 billion in the highway account and $8.5 billion in the transit account.

Mr. President, these funds are allocated in these trust accounts for the specific purpose of highway construction and mass transit use. If it were anybody but the Federal Government, the utilization of such funds aside from the purpose for which intended would be a fraudulent conversion and would amount, in fact, to a crime.

The Federal Government utilizes this bookkeeping procedure to take moneys which are really supposed to be used for highways and mass transit, and uses it as a deficit offset, which deludes the American people as to what the full extent of the deficit really is.

We have an urgent need in our society for highway improvements. There is not a State among the 50 that does not urgently require more construction of highways, repair of highways, and repair of bridges.

Similarly, on the subject of mass transit, there was urgent need for more funding for mass transit, which would provide an alternative for highways, for the congestion on our highways, which would vastly improve the problems of pollution and environmental concerns. It is high time, Mr. President, we move ahead on taking these trust funds off budget which will in turn allow us to use these funds for their intended purpose.

My late distinguished colleague, Senator Heinz, took the leadership in moving the Social Security Trust Fund off budget. I believe that the highway and transit trust funds should also be off budget, so there would be a straightforward process of utilizing these funds for the purposes for which they were intended.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, I compliment my colleague from Pennsylvania for this amendment, and I just point out to my colleagues that the distinguished manager of this bill, Senator MOYNIHAN, many, many times in our committee, when this issue came up, pointed out that the tragedy of this whole thing is that there is no money in the trust fund, because it has been spent on something else. It is a bookkeeping entry, and there is a delusion out across America that somehow there are billions of dollars sitting in the trust fund waiting to be released and spent to fix the Nation's roads and bridges.

So I have long been a supporter of the position of the Senator from Pennsylvania, and I support it now, because I think that we should do it this way, and we should be making a bigger commitment.

I say to my colleague from Pennsylvania, Mr. President, that as a member of the Finance Committee, when the time comes that we authorize the continuation of the funding to pay for this legislation that is pending before us, this Senator intends to offer an amendment in the committee, and on the floor, if it is not successful in the committee, to return the other 2½ cents that has been diverted to nontransportation funding, which is occurring as we speak. That will even make the situation more important that the Senator's amendment should be passed and put into law.

So I am sure there will be some opposition from the chairman of the Budget Committee and ranking member of the Budget Committee on this amendment. But as one Member of the Senate—not speaking for the committee—I favor the position the Senator from Pennsylvania has brought before us today, and I intend to support the amendment.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New York.

Mr. MOYNIHAN. Mr. President, it would be difficult for me to take objection to the purposes which the learned Senator from Pennsylvania advances by his amendment. I serve as chairman of the Subcommittee on Social Security and have spoken to the diversion of Social Security trust funds to the general purposes of government. I have done so on this floor for some years. The Senator from Pennsylvania said that, in a private arrangement, such diversion as goes on today in the trust fund and others would be fraudulent diversion and criminal. It is so elementally the case.

On the other hand, I have to observe that, having taken the Social Security trust funds off budget, we have not changed the pattern of the Federal Government using those funds as if they were general revenue, which they are not. Those funds have individual names on every account. President Roosevelt established it with that very much in mind; there would be no notion of these as general funds. Rather, they were accounts by individuals with their names and their Social Security numbers.

Even so, I think, as the Senator from Idaho observed, we might anticipate objection from the chairman of the Committee on the Budget and his ranking member, our friends from Tennessee and from New Mexico.

If no Senator wished to debate this further, I shall suggest the absence of a quorum during which time we can request the presence of one or both of those previously mentioned Senators to see if we cannot hear their view.

So, Mr. President, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that we might set aside the amendment proposed by the senior Senator from Pennsylvania in order to consider an amendment by the Senator from Nevada.

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

AMENDMENT NO. 313

(Purpose: To allow the use of Highway Trust Funds for the purpose of Bureau of Indian Affairs road sealing projects)

Mr. MOYNIHAN. Mr. President, on behalf of the senior Senator from Nevada, a fellow member of our committee and a person actively involved in formation of the committee bill that is on the floor now, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. REID, proposes an amendment numbered 313.

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

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the highway trust fund for the purpose of road sealing projects.".

Mr. MOYNIHAN. Mr. President, may I explain to the Senate the simple purpose which Senator REID has with this amendment. There are situations where the best use of Federal funds on Indian lands for surface transportation is a process called road sealing, which produces a durable, hard surface and which ought to be available in those circumstances.

The Federal Highway Administration, interpreting the existing law, has, however, decreed that such road sealing is merely routine maintenance and therefore Federal funds are not available for that purpose. This amendment would change that ruling and allow this option in appropriate settings. We think it is a good amendment, and we urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. Mr. President, I have no debate. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 313) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 312

Mr. WOFFORD. Mr. President, I rise to speak in support of the pending amendment offered by my friend and colleague from Pennsylvania, Senator SPECTER. Billions of our taxpayers' dollars are sitting in the highway trust fund in the mass transit account, untouchable by the States because this money is being used to mask the true size of the Federal budget deficit.

Mr. President, it is time for us to be honest with the American people. It is time for us to take a step to correct years of fiscal sleight of hand. Withholding these balances from vitally needed transportation projects is like highway robbery—our roads, bridges, and mass transit systems are literally crumbling before our eyes. Instead of rebuilding them, we are taking these dedicated funds to mollify the taxpayers about the size of the Federal deficit.

But people will not buy it, and neither should we. Our working families are paying billions of dollars to ensure that our Nation's highways and our mass transit systems are safe and efficient. But in the course of the debate on this transportation legislation, we have heard over and over again about highways and bridges in dangerous states of disrepair and transit systems going broke. Yet the administration actively blocks an increased investment in transportation because of its perceived effect on the budget deficit.

Our taxpayers know all about the deficit, Mr. President. We know and our citizens know that they and their children and grandchildren will be paying for it well into the next century. And they know that they are not getting their money's worth for the gas taxes they pay at the pump each day. Withholding transportation funds that are owed to the States may help balance the books in a shortrun sense, and I might say a fraudulent sense. But we owe the American people the full benefit of their transportation dollars for the long haul. If we can bail out the S&L's, then certainly we can help our working men and women get to their jobs, help our children get to school, and help our companies get their products to the buyers who want them. We owe them safe roads and bridges, clean and efficient transit and a fiscal policy based on fact, not fiction.

For these reasons, I strongly support the Specter amendment.

Mr. SPECTER. Mr. President, I thank my colleague, Senator WOFFORD, for his support of the pending amendment. I had suggested that there was a fraudulent conversion in not allocating moneys from the trust funds for the purpose for which they were intended. I think Senator WOFFORD has been much more graphic in calling it highway robbery. Highway robbery sounds a lot more emphatic than fraudulent conversion. I think that highway robbery is what it is.

It even drew a smile from the distinguished Senator from Idaho [Mr. SYMMS].

Senator MOYNIHAN after my initial speech made a reference to it being a matter of fraud to take moneys from trust funds.

So I urge my colleagues, when the time comes to vote on this amendment, to really focus on a very basic and fundamental proposition; that it is a matter of fraud, highway robbery; that it is really criminal to use trust fund moneys for some purpose other than that for which they were intended. It is not a matter as if the highways were not in enormous disrepair and bridges not in need of tremendous repairs and mass transit not in need of funds. So when Senator WOFFORD says, let us be honest with the American people, I think that is a good characterization and conclusion.

Mr. SYMMS. Will the Senator yield?

Mr. SPECTER. For a question?

Mr. SYMMS. Yes.

Would the Senator also think we might call this the great train robbery?

Mr. SPECTER. I think as the rhetoric accelerates, Mr. President, it becomes more accurate, with each new phrase added, to describe in emphatic criminal terms the status where the trust funds are not being used for the purpose for which they were intended. So I would adopt the comment made by my colleague from Idaho, also.

Mr. WOFFORD. Let me repeat a comment by a great President of the party represented by Senator SPECTER, President Abraham Lincoln. I believe his comment was: You can fool all of the people some of the time; you can fool some of the people all of the time; but you cannot fool all of the people all of the time.

It is time to stop fooling the American people and pretending that our budget deficit is less than it is at the price of holding these funds back from the transportation system we need.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanious consent that the order for the quorum call be rescinded.

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

Mr. MOYNIHAN. Mr. President, I do not wish to be repetitive. Neither do I wish to appear hectoring. But it is a

fact that we have been on this floor all afternoon, beseeching our colleagues to come forward with amendments if they have them, and making the point that this legislation is moving and it may move so fast, of a sudden, that opportunities will have been lost. We do not want that to happen. We cannot guarantee it will not. We do say come now, and you may be sure it will not.

I understand we have an amendment from the senior Senator from Pennsylvania on which he has spoken, and our colleague, the junior Senator from Pennsylvania, has spoken as well. We are awaiting the chairman and ranking member of the Budget Committee, if they find it convenient to come. If not, we will just dispose of the matter.

Again, I only wish to say opportunities are here now which may not be here indefinitely. I make that statement for about the fifth time this afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I see the distinguished chairman of the Budget Committee on the floor. Might I ask him, the Senator from New Mexico would like to return to appropriations and that is why I wanted to speak, but I will certainly defer to him if he is ready to speak at this time.

Mr. SASSER. Mr. President, I will be pleased to defer to the distinguished Senator from New Mexico if he wishes to speak.

Mr. DOMENICI. Mr. President, I will try to be brief. I am hopeful that the distinguished chairman of the Budget Committee will make a point of order against this amendment, and I assume he will. I think it violates the Budget Act and budget process in more than one way. But any of the points of order are 60 vote points of order. I think that such should be the burden of an amendment of this magnitude.

First of all, we have 165 trust funds. The Senator from Pennsylvania now seeks to remove two of them from the calculations under the Budget Act and under the 5-year agreement that was entered into last year among the President and Democrats and Republicans in the Senate and the House.

Essentially, what this will do, in a nutshell, let us assume the annual expenditures under this trust fund will be $15 billion to $16 billion next year. We will just talk about one at a time. If we remove this from the budget agreement, we will then essentially destroy the agreement because what we will have done is taken $15 billion out and, thus, there would be $15 extra billion to spend under the caps and agreements entered into last year.

There may be some who would like to do that, but, obviously, that is a very large amount of money. Let me give the Senate an estimate.

This year, that whole domestic account, my recollection is, it is about $212 billion. So you would take 15 to 16 out and permit that $212 to remain intact and spend it for other programs.

So, essentially, we would have destroyed the agreement that thus far all the Democrats and Republicans in the Senate, leaders of the Senate, the President of the United States, the leadership in the House are all saying let us keep that 5-year agreement intact.

As a matter of fact, it has even been strong enough, Mr. President, that during this recession it has held. We have voted twice in the Senate to remove the inhibitions of wild spending which we could have done because of the nature of the economic situation and in both times, very few Senators, less than 10—in fact, the first time it was only 1 or 2 and the second time, 5 or 6—who voted to suspend the enforcement mechanisms that are in the 5-year agreement, probably the most significant, responsible agreement in modern history. And the country needs it. It is not as if we did it because we are prudent and great leaders. It was high time we put an agreement of that sort in place.

Make no bones about it, taking this entire trust fund, the outlays, the receipts, taking them all off budget will destroy that agreement. I do not think there is any doubt about it. We will not have an agreement. One may just as well come up here and introduce on the highway bill a resolution saying we have no 5-year agreement. It will have no worse effect than this amendment, which effectively in a roundabout way will destroy it.

I say to those who want highway funds expended, the distinguished chairman of the Appropriations Committee, Senator BYRD, is probably the strongest proponent of more infrastructure expenditure in this Nation. Frankly, I do not believe he wants to destroy the 5-year agreement. As a matter of fact, he has thought it was important enough to even have a tiny sequester the other day because we spent $5 million more than we were supposed to, and rather than call it de minimis, he said let us have a sequester. I say to my friend the sequester was 0.0013 or less, and yet we had it because we want to enforce the agreement.

So I believe this is the wrong time, if there ever is a good time, to break the budget up into more pieces. I do not think there really is, but this is absolutely the wrong time. I will support the chairman of the Budget Committee, who I hope will make a point of order. I think the Senate should once and for all indicate loud and clear that they do not want this to occur.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I want to thank my distinguished friend from New Mexico for his observations, and let me say, at the appropriate time I do intend to make a point of order.

Mr. President, what we are faced with is the beginning of the end of the budget summit agreement and the beginning of the end for fiscal discipline if we should sustain the wishes of the distinguished Senator from Pennsylvania and remove the highway trust fund from the unified Federal budget or, in effect, put it off-budget.

If we are going to start taking the highway trust fund off budget, why stop there? Why do we not take all of the trust funds off budget? Why do we not begin to add the civil service retirement to the highway trust fund and take that off budget? Why should the highway trust fund be off budget and the civil service retirement fund be on budget?

And while we are taking the civil service retirement off budget, let us also take the military retirement fund off budget. Let us really just get serious about this and do away with the total unified budget. If we adopt the Specter amendment, we will be starting down that road.

Let us take Medicare off budget. I think we can make a strong, clear, convincing and compelling case that Medicare ought not be part of the unified budget. We collect funds to be used for the purpose of Medicare to be put into a trust fund, to be used for that purpose, so let us just take that off budget.

How about the unemployment compensation proceeds that are collected? Why do we not take those off budget, too? If we are going to take the highway trust fund off budget, why should we leave the unemployment compensation funds that are collected on budget?

While we are at it, Mr. President, let us just take the aviation trust fund off budget also. Let us make this thing symmetrical all the way around.

The truth is if we take all of these trust funds off budget, if we destroy the unified budget while we are also destroying the budget summit agreement, we are going to be sitting around here looking at Federal deficits in the neighborhood of about $600 billion.

This country is wallowing in a recession now. The administration tells us we bottomed out. It is my understanding that we bottomed out all right. We are going to be bumping along this bottom for a long, long time before we start getting any relief from it.

What does it tell the financial markets, those who lend money, those who

set interest rates, if we are going to take everything off budget and we are simply going to drive the Federal deficit up through the roof?

Clearly that does not make any sense. What we are saying here is if we take the highway trust fund off budget—and we all sympathize with the wish of the distinguished Senator from Pennsylvania to spend more money on the infrastructure. I am one of the leading advocates of that here in this body. I supported the distinguished chairman of the Appropriations Committee in his efforts to spend more money for infrastructure, for roads, bridges. I supported him when we had that argument and that debate in the budget summit agreement.

I might say, Mr. President, the highway program has fared very well with the present budgetary treatment it receives. Last year the Appropriations Committee increased highway obligations by over $2.1 billion and the committee is likely to increase spending for the programs again this year. In fact, I have no doubt that it will. The appropriate vehicle for increasing expenditures from trust funds is by raising the obligation.

Mr. President, if we should follow the course being urged upon this body by my friend, the Senator from Pennsylvania, today we would raise the deficit immediately in this fiscal year by $2 billion.

Once we take the highway trust fund off budget, I can predict you are going to see a whole host of amendments here as legislation moves through this body to take everything off budget; as I said, the civil service retirement, military retirement, Medicare, unemployment, the Aviation Trust Fund. And this would raise the deficit by billions of dollars and would radically reduce our control over a very, very substantial portion of Government spending.

Mr. President, at the appropriate time—I see the distinguished Senator from Texas is on his feet, and also the distinguished Senator from New York—I will raise a point of order.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think the leadership of the Budget Committee has made a very clear presentation here. I do not want to belabor it or duplicate it.

Let me say this. Ever since I came to the Senate there has been an argument that we were building up balances in the highway trust fund. I have been a strong proponent of spending resources raised for the purpose of carrying out the functions of the highway trust fund, such as building roads, and building mass transit.

I have always thought it was wrong to build up balances in the highway trust fund to, in essence, allow budgetary room for spending on other programs.

But I remind my colleagues that the real effect of the amendment pending is not to free up funds for highways. In fact, we fully commit the highway trust fund revenues over the next 5 years for that purpose under this bill.

The bill before us goes further than any bill that has been considered in the 7 years I have been in the Senate in spending money from the highway trust fund for the purpose that it was raised, and that is one of the reasons I am supportive of the President's highway bill.

But, Mr. President, by taking the highway trust fund off budget, what we do is setup the procedure for breaching the spending caps.

The money freed up by taking the trust fund off budget is not going to go to highways. This amendment is not going to cause more money to be spent on highways. By taking the spending on highways out of the caps, this amendment is going to make it possible to instead spend money on other things. So this is not a highway amendment. This is a deficit amendment.

I think it is vitally important that the point of order be sustained and that we see this amendment fall. I repeat again: The highway bill before us spends every nickel it will bring in in new revenues over the next 5 years. It does exactly what we should have been doing to begin with. But let us not use a past concern as an excuse to destroy fiscal restraint, and in the process, force the deficit up and damage the economy.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise briefly just to comment on the remarks of the Senator from New Mexico and the Senator from Tennessee about the nature of our budget situation, and to try to put this bill in that context. For that purpose, we have provided an introductory statement to the bill which tried to set forth the constraints as we understood them on this bill.

We observed the crumbling infrastructure has become part after the political imagery of American life. At any point of the political compass or spectrum you will find one of the needs invariably invoked is our Nation's crumbling infrastructure. We do not deny that.

To the contrary, we assert we have been in a long period of disinvestment, using up the infrastructure investment of the country, running it down, not even keeping to a constant level.

The best study we have on this is the work of the National Council on Public Works Improvement, established by the Congress. Their report was called "Fragile Foundations." They reported that Federal expenditures for highways, to take one segment of infrastructure, reached a peak in 1965 of some $40 billion a year. That was the high point.

It has been down ever since. We are now running at $10 billion a year in constant 1982 dollars. From $40 billion in President Johnson's time to $10 billion in President Bush's time. That is a big drop.

The case for large new expenditures is certainly legitimate. But what we tried to say, and I do not know if the Nation will ever absorb this, is that there is no money beyond the money we are talking about.

I ask my friend from Tennessee to hear this one paragraph. Speaking of the constraints we deal with, one is budgetary:

> The United States Government for the present and foreseeable future cannot and will not embark on the epic enterprises that came with such seeming ease to Roosevelt and Eisenhower.

I referred to President Roosevelt, who proposed the Interstate System. President Eisenhower created the trust fund that set it going forward. We continue.

We have spent our money on other things and are now much in debt. And there you are. We trebled the national debt in the 1980's. In about 3 year's time, I think, interest on the debt will be larger than the defense program. We are a debtor Nation, thanks to all the hurrah and hoopla about a balanced budget and cutting waste, fat, and abuse.

All that rhetoric was a screen for indescribable irresponsibility and wild spending by those who most spoke the gospel of frugality, reserve, the deferral of satisfaction. It went wild, and they concealed it with rhetoric.

The reality is now with us. We say here we have spent our money on other things, and are now much in debt.

We have $105 billion. That is a lot of money. It would not be a lot for some countries. The Japanese would not find it a lot of money over 5 years, but we do, because we spent it in the last decade. We are living in that reality.

At least Harry Hopkins had the honesty to say: We will tax and tax and spend and spend and elect and elect. That is honest. They spent and spent and borrowed and borrowed and elected, elected, elected. And they left their country broke.

But it does bespeak us to live with that constraint. The committee report states that:

> Just as engineers live in a world of precision measurement, prudent risk, and the understanding that decisions must be based on what is, rather than on what might be, so legislation concerning public works must be equally realistic.

So we have called this the Surface Transportation Efficiency Act. We have not had any discussion of this at all on the floor, but we are not in such

a hurry that we cannot say a word about it. We have said if this is all the money you can spend, then try to get your money's worth.

Surface transportation is at the epicenter, if you like, of public sector disease. We have had in the transportation sector, productivity in the last 15 years that has been growing at 0.2 percent per year. Mr. President, that is a medieval rate. That is the rate at which Western Europe probably grew from the year 1000 to the year 1350, on the cusp of the Renaissance. Such a rate takes 350 years to double.

And why should it not, if you think of it as a free good that can be spent without regard to its consequences, just like we threw our money away on the wild extravagances of the 1980's and became a debtor Nation; went to war and could not pay for it; had to go around the world asking other people to pay for it. We have never done that before.

So we are still talking. What is delaying this enterprise, Mr. President, why we are here asking for amendments is we are still squabbling about how much money we will get, when there is no money left. It has been spent. We are saying at least try to get some good out of what you do spend. Get your money's worth. Think productivity, accountability, efficiency. Think costs and benefits.

We are hoping we can take advantage of a situation that will be with us for generations. If adversity can teach us to spend public moneys well, the adversity will be more than worth it.

This bill institutes the discipline of accountability into the public sector which, like most public sectors, is hugely wasteful and, unlike most others, can be destructive. That is what this bill is all about. We are acting like it is still more of the same: how to spend more money.

Mr. President, I say again that the United States Government, for the present and foreseeable future, cannot and will not embark on the epic enterprises that came with such seeming ease to Roosevelt and Eisenhower. We have spent our money on other things and are now much in debt. There you are.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I intend to press this amendment through to a vote. I understand from the Parliamentarian it would take 60 votes. I do not labor under any illusion about its success here today. However, I believe it is a building process.

The first time I made an amendment on prison construction on a budget resolution in the early 1980's, it received 16 votes. ultimately, the amendments on the budget resolution came as high as 95 votes.

I believe that it is important to put Members of this body on record on the underlying principles involved in this matter, because I think the American people will be foursquare in favor of this kind of an amendment.

The American people suffer from inadequate roads, bridges, and mass transit, and the American people pay taxes for that purpose. Those taxes are placed in a trust fund, and those trust funds are diverted.

When the distinguished Senator from Tennessee says that this amendment will affect the markets, I believe that is inaccurate. The markets understand the manipulations of the budget process, and what the true deficit is, and when the highway and mass transit trust funds are used to offset the deficit. A third-grade arithmetic student can understand that. The passage of this amendment would not affect the markets.

When the distinguished Senator from New Mexico says that this will be the end of the budget deal, I understand the complications that this will be for the budget deal. But I do not believe that it is sound for our Government to have taxes pay for gasoline, for highways, and mass transit, and have it used for another purpose.

When the distinguished Senator from Texas, Senator GRAMM, says this is not going to highways, that is just not accurate on the basic thrust of this amendment: that the funds are to be used for highways, bridges, and mass transit.

When, again, the distinguished Senator from Tennessee says the highways and mass transit, have done well from the appropriations process, I disagree, respectfully. The reason that I disagree is that at the beginning of this fiscal year, $9.6 billion were unexpended from the highway trust fund; $7.2 billion was unexpended from the transit trust fund.

If anybody but the Federal Government were to have a trust fund and not use it for the purpose for which it was intended, it would be a criminal act, fraudulent conversion. My colleague from Pennsylvania, Senator WOFFORD, said that it is highway robbery.

I think when the American people understand what is going on here, that their gas taxes are not used for highways and for bridges, they are going to be very unhappy.

That is the underlying vote which is going to happen here today when Senator SASSER and Senator DOMENICI raise a point of order and I move to waive section 306 of the Budget Act. So I am under no illusion about the outcome of this vote. But I trust to be around here long enough to see this succeed.

I recollect the activities of my late colleague, Senator Heinz, on his repeated efforts to take the Social Security trust fund off budget. One night at about midnight he was tying up the Senate on that issue, and ultimately he succeeded.

I think ultimately there will be success to take the highway and mass transit trust fund off budget. I do know that the highway builders and the mass transit exponents around the country will be citing this vote on the underlying issues and the underlying equities.

The hour is now 6 o'clock, and I am not going to belabor the discussion any longer. I will await what I know is a pending objection from the distinguished Senator from Tennessee.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Tennessee.

Mr. SASSER. Mr. President, the pending amendment deals with a matter within the jurisdiction of the Committee on the Budget, and this bill has not been reported by the Budget Committee. As a consequence, a point of order lies against this amendment under section 306 of the Congressional Budget Act.

So, Mr. President, on behalf of myself and Senator DOMENICI, and pursuant to section 306, I raise a point of order against the Specter amendment.

Mr. SPECTER. Mr. President, I move to waive section 306 of the Budget Act for consideration of the underlying amendment.

The PRESIDING OFFICER. The motion is debatable.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, as to debate, I think debate has been had.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the motion of the Senator from Pennsylvania. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

The yeas and nays resulted—yeas 29, nays 69, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—29

Boren	Daschle	Levin
Bryan	DeConcini	Lieberman
Coats	Grassley	Lott
Cochran	Harkin	Mack
Cohen	Hollings	Moynihan
Conrad	Jeffords	Nickles
Craig	Kasten	Pressler
D'Amato	Leahy	

Reid	Specter	Symms
Riegle	Stevens	Wofford

NAYS—69

Adams	Fowler	Mikulski
Akaka	Garn	Mitchell
Baucus	Glenn	Murkowski
Bentsen	Gore	Nunn
Biden	Gorton	Packwood
Bingaman	Graham	Pell
Bond	Gramm	Robb
Bradley	Hatch	Rockefeller
Breaux	Hatfield	Roth
Brown	Heflin	Rudman
Bumpers	Helms	Sanford
Burdick	Inouye	Sarbanes
Burns	Johnston	Sasser
Byrd	Kassebaum	Seymour
Chafee	Kennedy	Shelby
Cranston	Kerrey	Simon
Danforth	Kerry	Simpson
Dixon	Kohl	Smith
Dodd	Lautenberg	Thurmond
Dole	Lugar	Wallop
Domenici	McCain	Warner
Exon	McConnell	Wellstone
Ford	Metzenbaum	Wirth

NOT VOTING—2

Durenberger	Pryor

The PRESIDING OFFICER. On this vote the yeas are 29, and nays are 69. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment proposed by the Senator from Pennsylvania would prohibit the outlay and revenue totals of the highway trust fund from inclusion in the surplus or deficit totals under the Budget Act.

Since the amendment is not offered to a bill reported by the Budget Committee, it violates section 306 of the Budget Act. The point of order then is well taken. The amendment falls.

Mr. SYMMS. Mr. President, I just want our colleagues to know the majority leader has advised me it is his intention to push ahead with this bill. If Senators have amendments, we ask they please bring them to the floor. We will be moving ahead.

We have Senator DOMENICI prepared to offer a couple of amendments, and then the two Washington Senators are going to offer an amendment.

Mr. ADAMS. We are prepared to follow Senator DOMENICI.

The PRESIDING OFFICER. There is an amendment pending. It will take unanimous consent to set it aside.

Mr. SYMMS. Mr. President, I ask unanimous consent to temporarily lay the Byrd amendment aside.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, first, I thank my distinguished colleague.

Mr. President, the Senate has heard extensive discussion of the apportionment formula provided by S. 1204.

As I have stated, I offer the Senate an alternative proposal which has a growing bipartisan coalition and my amendment is known as the Federal-aid surface transportation bill, or FAST.

The fundamental problem is inequity. The committee's bill perpetuates an inequitable allocation of Federal highway funds between the 50 States and the District of Columbia. The supporters of FAST do not expect, nor request, a 100-percent return; but we do seek an apportionment which is equitable.

A second major problem is flexibility—flexibility is the power given to the States as to how their allocation is applied to their own priorities.

My amendment, embodies three principles as alternatives to sections of the committee bill.

First, my amendment retains a Federal partnership that has been the hallmark of national transportation policy since the outset of the Interstate Highway System in 1956.

And it does so by recognizing that our future national transportation system must link States with modern, well maintained corridors moving interstate commerce and people.

Second, it gives the States maximum flexibility to deal with the particular needs that a State may have; and

Third, in dividing up the money among the several States it follows what we believe should be the cardinal principle in the postinterstate era: Put the money where the cars are. It offers a solution that is tied to the problem that many of our States face—urban and suburban congestion—gridlock.

This amendment does say that with the completion of the Interstate system, the disparity between donor and donee does not have to be as great. This amendment is simply founded on the principles of fairness and equity.

The FAST amendment is simple and straightforward. It is a two-part program consisting of a national highway and bridge program, and an urban and rural highway and bridge program equally divided 50–50 in terms of funding.

The amendment calls for the development of a national transportation system and earmarks half of the money going to any State for use on that system. The States, working with the Federal Highway Administration, would develop the actual system over the months to come. This can be new roads or, more likely, the designation of existing roads—roads which must be maintained to high standards.

There is a continuing need to provide for uniformity and connectivity to all parts of the nation for interstate commerce and national defense, linking major population centers.

Importantly, when it comes to defining and meeting a transportation need in a corridor on the national system, maximum flexibility would be given to the State to meet that need in the most reasonable way.

The National Highway and Bridge System would provide that the Interstate System would be the cornerstone of the expanded system.

States would have the flexibility to designate other roads and bridges to be a part of the national highway system and the U.S. Department of Transportation would certify the designations made, not by the Federal government, but the States. That's flexibility.

That same type of flexibility exists in the other programs under FAST. The Rural and Urban Highway and Bridge System would receive the other half of the funds. These funds can be used on any project except the most local roads at the discretion of the State.

To provide even greater flexibility, up to 20 percent of the funds in either of the two categories can be transferred to the other program to meet a State's needs.

The amendment provides for an 85 percent match from the Federal government for both programs, making an important exception for the construction of high-occupany vehicle [HOV] lanes to help meet our clean air obligations. HOV lane funding would be at a 90 percent match.

This amendment departs from the Federal-aid surface transportation bill as introduced in one respect. The amendment provides for a new discretionary bridge program. It is intended to provide a source of funds to States for the replacement or rehabilitation of high cost bridges. Specifically, high cost bridges are defined as those costing over $20 million or more than 10 percent of a State's annual apportionment.

Mr. President, this amendment also provides three guarantees to all States. They are:

First, there is a hold harmless provision based on 1991 apportionments. That means that no State will receive less the apportionment it received in fiscal year 1991.

Second, there is a protection of one half of 1 percent which guarantees each State a minimum of one half or 1 percent of the total apportionments.

Third, there is a 90-percent minimum allocation.

I would like to emphasize that the other programs provided in S. 1204 would not be altered. My amendment does not change the Congestion Mitigation and Air Quality Program, it does not change the Interstate Completion and Substitution Program or other programs.

Mr. President, I ask that unanimous consent that the amendment be printed in the RECORD in full and that a letter from the General Accounting Office be printed following my statement.

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

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 12, 1991.

Hon. JOHN W. WARNER,
U.S. Senate.

DEAR SENATOR WARNER: Your office requested that we examine the apportionment formula described in section 121 of S. 1121 for consistency with standing GAO recommendations about the federal aid highway apportionment formulas. After reviewing the relevant provisions of the bill, we conclude that the proposed formula is one of several consistent with our previous recommendations. Our recommendations appeared in a 1986 report, Highway Funding: Federal Distribution Formulas Should be Changed (GAO/RCED-86-114). That report identified three factors that affected a state's cost of preserving the existing highway network: (1) the extent or size of its highway system, (2) how much its highways are used, and (3) the cost of inputs (labor and materials, etc.) needed for preservation. Allocating funds based on these criteria is consistent with a goal of allocating federal aid in accordance with the cost of preserving the existing highway network. However, other goals, such as improving air quality or reconciling the sometimes competing objectives of mass transit and highway programs, were not reflected in our 1986 report.[1]

Our report made the following recommendations for reflecting highway needs:

That highway lane miles be used in place of land area as an indicator of highway system size.

That vehicle miles traveled (VMT) or motor fuel consumption be used in place of urban and rural population as indicators of highway use.

If population is used as a proxy for highway use, that annual estimates be used.

That postal route miles not be used to apportion funds.

Because most highway deterioration is the direct result of highway use, that vehicle miles traveled or motor fuel consumption receive greater weight than lane miles.

At the time of our review, no national index of input costs was available to include in an apportionment formula. Therefore, the 1986 report made no recommendation for an input cost factor. We are currently determining if information for an input cost factor is now available or could be developed.

The apportionment formula in S. 1121 generally conforms to our recommendations. It uses 1/9 rural lane miles, 2/9 urban lane miles, 1/9 rural VMT, 2/9 urban VMT, and 3/9 diesel fuel. Thus two-thirds of the funding is allocated based on the two highway use factors (vehicle miles traveled and diesel fuel consumption),[2] and one third on system size (lane miles). The greater weight placed on highway use factors is consistent with studies we examined in our 1986 report, showing that most highway deterioration is the result of use. GAO has not analyzed and has made no recommendations on the weighting that should be given urban and rural lane miles or urban and rural vehicle miles traveled.

In view of recent legislation that has addressed the goal of clean air, consideration may be given to using vehicle miles traveled and an annually updated population factor instead of diesel fuel consumption. In briefings with your staff, we have also indicated that a formula based on lane miles, vehicle miles traveled, and general population would be consistent with our recommendations.

S. 1121 contains other provisions designed to provide minimum funding guarantees. These include guaranteeing (1) that each state receives at least 0.5 percent of available funding (consistent with current law) and (2) that each state receives at least 90 percent of its payment into the highway trust fund. We have not analyzed these provisions.

Finally, we note that the proposed formula in S. 1121 would result in significant shifts in state funding allocations. We suggested in 1986 that the Congress may wish to provide for a transition period during which changes in state funding would be gradually introduced.

Should you have any questions, please call me at (202) 275-1655 or Jerry Fastrup at (202) 275-6169.

Sincerely yours,

LINDA G. MORRA,
Director, Human Services Policy and Management Issues.

PROPOSED WARNER AMENDMENT

Beginning on page 12, strike section 105 of the bill and insert the following new section:

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned or allocated to a State under title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991, except that—

(1) unobligated balances of primary and Interstate 4R funds may be transferred to the National Highway and Bridge System;

(2) other unobligated balances may be transferred to the Urban and Rural Highway and Bridge Program;

(3) transferred funds are subject to the law, regulations, policies and procedures relating to the category to which transferred;

(4) transfers will be allowed on a one time per year basis; and

(5) this section does not apply to unobligated balances of interstate construction or interstate substitution funds.

Beginning on page 12, strike section 106 of the bill, and insert the following new sections:

SEC. 106. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 160. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

"(a) FINDINGS.—The Congress hereby finds and declares the following:

"(1) National resources should be focused upon the important goals of preserving the Nation's investment in its interstate systems and insuring that these systems continue to support actively interstate commerce, national defense, and linkage of major urban areas.

"(2) Broad national defense, economic, safety, and international policy goals are advanced by efficient transportation system which ensure free movement of people, goods, and information.

"(3) National transportation investments should increasingly encourage domestic and international commerce and trade.

"(4) Based on congressionally established national transportation policy and objectives, a new Federal high priority highway network, a national highway and bridge system should be designated from the most vital elements of the current network.

"(b) ESTABLISHMENT.—(1) The Secretary shall establish the National Highway and Bridge System—

"(A) to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports and international border crossings;

"(B) to meet national defense requirements; and

"(C) to serve interstate and interregional travel.

The National Highway and Bridge System shall consist of all designated Interstate highways on the date of the establishment of the program, an appropriate portion of the rural and urban principal arterial routes, including toll facilities, and national defense highways.

"(2) In addition other routes which meet the following criteria shall be eligible for inclusion:

"(A) Nationally significant truck routes.

"(B) Routes that provide nationally significant commodities with access to markets.

"(C) Access points to significant national parks, international border crossings, ports and airports, and major regions in the States.

"(3) Facilities that will provide logical connection between major population centers and the national highway and bridge system.

"(4) Major urban corridors.

"(c) DESIGNATION.—Each State, in consultation with regional and local officials, shall designate the national highway and bridge system, with the approval of the Secretary. The National Highway and Bridge System shall be based on a functional reclassification of roads and streets in each State. The system should be designated by September 30, 1992, and shall be designated by not later than September 30, 1993, in accordance with guidelines issued by the Secretary. Such guidelines shall provide for an equitable allocation of mileage among the States. For fiscal year 1992 and, if necessary, fiscal year 1993, States may use National Highway and Bridge Program funds for the purpose of funding the preliminary National Highway and Bridge System designated by the State and approved by the Secretary as of September 30, 1991.

"(d) REVIEW.—The Secretary shall establish criteria for reviewing projects to be funded as part of the National Highway and Bridge System. The criteria shall define eligible projects to include rehabilitation, resurfacing, restoration, capacity, expansion, operational improvement, safety, and new highway construction. The criteria shall ensure, as a first priority for the use of available funds, the adequate preservation and protection of investments made in the Interstate highways in each State, and the provision of suitable traveling quality by the Interstate highways. The criteria shall permit funding in urbanized areas to be used to improve highway and transit systems, in any case where there is a showing that the improvement will provide an increase in the level of service within the corridor of the National Highway and Bridge System. The criteria shall also permit the use of such funds for projects for access to ports, airports, international border crossings and other major travel destinations.

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[1] For a discussion of these issues, see our testimony: Transportation Infrastructure, Department of Transportation Highway and Mass Transit Program Reauthorization Proposals (GAO/T-RCED-91-26, Apr. 18, 1991).

[2] The correlation between total motor fuel consumption and diesel fuel consumption is 0.97. Thus, diesel fuel serves as an indicator of highway system use.

"(e) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share payable for a project under this section for the construction of high occupancy vehicle lanes (as described in section 102(d) of this title) shall not exceed 90 percent of the cost of the project.

"(f) DISCHARGE OF RESPONSIBILITIES.—(1) Upon the request of any State, the Secretary may discharge responsibilites under this title relating to any National Highway and Bridge System project that—

"(A) meets the categorical exclusion criteria (as defined in section 771 of title 23, Code of Federal Regulations, as in effect on the date of the enactment of the Surface Transportation and Efficiency Act of 1991); and

"(B) has an estimated cost of construction of less than $5,000,000.

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System project.

"(2) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System that—

"(A) meets the categorical exclusion criteria (as defined in in section 771 of title 23, Code of Federal Regulations);

"(B) has an estimated cost of construction of $5,000,000 or more; and

"(C) is selected in accordance with criteria established by the Secretary,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects.

"(g) PROCEDURES AFTER FISCAL YEAR 1995.—Beginning with fiscal year 1996, the Secretary shall discharge responsibilities for the National Highway and Bridge System projects described in subsection (c)(1) of this section by the certification process described in this section. The Secretary shall, beginning with fiscal year 1996, rescind project approval if a satisfactory certification is not presented by the State.".

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—For the National Highway and Bridge Program—

"(i) ⅓ in the ratio which the rural lane miles in each State bears to those of all States;

"(ii) ⅓ in the ratio which rural vehicle miles traveled in each State bears to those of all States;

"(iii) ⅔ in the ratio which the urban lane miles in each State bears to those of all States;

"(iv) ⅔ in the ratio which the urban vehicle miles traveled in each State bears to those of all States; and

"(v) ⅔ in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

"(B) MINIMUM APPORTIONMENT.—No State shall receive less than ½ of 1 percent of each year's apportionment.

"(C) TRANSFER TO URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual National Highway and Bridge System program apportionment to the urban and rural highway and bridge program of the State if the Governor of the State and the Secretary agree that adequate Interstate System conditions exist.";

(2) by striking "upon the Federal-aid systems" and inserting "upon the National Highway and Bridge System, the Urban and Rural Highway and Bridge Program, and the Congestion Mitigation and Air Quality Improvement Program";

(3) by striking "paragraphs (4) and (5)" and inserting "subparagraph (5)(A)"; and

(4) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

SEC. 106A. URBAN AND RURAL HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 161. URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an urban and rural highway and bridge program to provide a category of funds that minimizes Federal requirements, and to provide flexibility in the use of available funds for either highway or transit projects. The urban and rural highway and bridge program shall consist of all public highways (including bridges) functionally classified as arterials, urban collectors, and rural collectors (other than those designated as part National Highway and Bridge System), and shall also include bridges on any public road. Each State, in cooperation with regional and local agencies of the State, shall establish guidelines for implementing the program under this section. The guidelines shall—

"(1) include criteria for setting priorities and encouraging regional intermodal solutions, where appropriate;

"(2) ensure that administrative costs are minimized through simplification of processes and application of controls that ensure accountability for funds and projects;

"(3) ensure that each agency has flexibility to use funds for solutions to transportation problems that bring about a most efficient increase in mobility and best address regional and local land use, air quality, and economic development issues.

"(b) ELIGIBLE HIGHWAYS.—Highway projects may be funded on public roads (except any road on the National Highway and Bridge System, and road functionally classified as local, or any road functionally classified as rural minor collector). Part of a State's annual urban and rural highway and bridge program apportionment may be extended for highway safety improvements, bridge replacement or rehabilitation, or eliminating rail-highway crossing hazards on public roads functionally classified as local or as rural minor collector.

"(c) ELIGIBLE PROJECTS.—Eligible projects under this section shall include construction, operational improvements, highway safety improvements, highway research and development, transportation planning, capital transit projects (such as the construction, reconstruction, and improvement of fixed rail facilities, including purchase of rolling stock for fixed rail), the purchase of buses and support facilities, capital projects to improve access and coordination between intercity and rural bus service, technology transfer projects, startup costs for traffic management and control projects, bicycle and pedestrian projects, projects to develop and improve scenic byways, projects to enhance rural and urban accessibility and mobility, the acquisition of outdoor advertising signs and the sites, removal or screening of junkyards, carpool projects, fringe and corridor parking projects, the construction of exclusive or preferential high occupancy vehicle lanes, landscaping, scenic enhancement and rest area projects, and projects that create, conserve or enhance wetlands.

"(d) REQUIREMENTS.—

"(1) COMPLIANCE WITH STATE REQUIREMENTS.—Projects under this section must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(2) COMPLIANCE WITH FEDERAL REQUIREMENTS.—

"(A) IN GENERAL.—Each State with a project under this section shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Single Audit Act of 1984 (31 U.S.C. 7501 through 7507), the Civil Rights Act of 1964, the Clean Air Act (42 U.S.C. 7401 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the applicable requirements of this title and other applicable Federal laws, regulations, and Executive orders.

"(B) DELEGATIONS.—In lieu of applying the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) the Secretary may, under regulations, provide for the approval of projects by recipients of assistance under this section. Such recipients, pursuant to the requirements of this paragraph, may assume all of the responsibilities for environmental review, decision making, and action described in the National Environmental Policy Act, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph only after consultation with the Council on Environmental Quality.

"(C) CERTIFICATION.—Each State or other recipient assuming responsibilities on the part of the Secretary pursuant to subparagraph (B) shall submit an annual certification under the regulations authorized by subparagraph (B). The certification shall—

"(i) be in a form acceptable to the Secretary,

"(ii) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations authorized by subparagraph (B),

"(iii) specify that the recipient of assistance under this section will fully carry out its responsibilities as described under the regulations authorized by subparagraph (B),

"(iv) specify that the certifying officer—

"(I) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary (to the extent that the provisions of such Act, or other provisions of law apply under the regulations authorized by subparagraph (A) or (B)); and

"(II) is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities; and

"(v) agree that the Secretary's approval of any certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of laws the regulations of the Secretary specify insofar as the responsibilities relate to the approval of projects by recipients under this section.

"(3) BRIDGE INSPECTION AND INVENTORY SYSTEM.—Each State that conducts a project under this section must have an ongoing bridge inspection and inventory system.

"(4) CONSULTATION.—In any case where a tribe has jurisdiction or is affected by a project under this section, consultation with local officials and Indian tribal officials shall be required.

"(5) DISTRIBUTION OF FUNDS.—In cooperation with local units of government each State shall develop a method to distribute apportionments within the State under this section fairly and equitably to rural areas, urban areas and urbanized areas with a population greater than 250,000.

"(6) COMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with provisions of this section, the Secretary shall notify the State that, if the State or local government fails to take corrective action within 120 days after the receipt of the notification, the Secretary may withhold payments under this section until the Secretary is satisfied that the appropriate corrective action has been taken.

(e) OBLIGATION OF FUNDS AND METHOD OF PAYMENT.—

"(i) OBLIGATION OF FUNDS.—The Governor of each State shall certify prior to the first day of each fiscal year that the State will meet all the requirements of subsection (e). The Governor shall notify the Secretary of the amount of obligations expected to be incurred for urban and rural highway and bridge program projects. The State may subsequently request adjustment to the obligation amounts during the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the urban and rural highway and bridge funds expected to be obligated by the State in that fiscal year.

"(2) METHODS OF PAYMENT.—The Secretary shall make payments to a State (or other recipient) for costs incurred with respect to a program conducted pursuant to this section. Such payments shall not exceed the Federal share of costs incurred as of the date the State requests payment.

"(f) REVIEW AND REPORT.—The Secretary may conduct reviews of State procedures and projects. The States shall report annually to the Secretary in accordance with guidelines established by the Secretary on the use of funds administered under this section.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by inserting the following paragraph in an appropriate place:

"(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—The funds authorized to be appropriated for the urban and rural highway and bridge program shall be apportioned in the ratio of attributable tax payments to the highway account of the Highway Trust Fund, attributable to the highway users of each State. No State shall recieve less than ½ of 1 percent of each years apportionment.

"(B) TRANSFER TO NATIONAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual urban and rural highway and bridge program apportionment to the national highway and bridge program of the State.".

At the appropriate place in the bill, insert the following new section:

SEC. . FEDERAL SHARE PAYABLE.

Section 120(a) of title 23, United States Code, is amended to read as follows:

"(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM AND URBAN AND RURAL HIGHWAY BRIDGE PROGRAM PROJECTS.—(1) Except as provided in paragraph (2) and in section 129 the Federal share payable on account of any national highway and bridge and urban or rural highway and bridge program project—

"(A) shall not exceed 85 pecent of the cost of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of such lands in the State, is of its total area); or

"(B) shall not exceed 85 percent of the costs of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area, except that the Federal share payable on any project in a State under subparagraph (A) or (B) shall not exceed 90 percent of the cost of the project.

"(2) In any case where a State elects to have the Federal share provided pursuant to paragraph (1)(B), the Governor of the State must enter into an agreement with the Secretary (for a period of not less than 1 year). As part of the agreement the State shall agree to use such funds solely for highway construction purposes (other than paying the State share of the projects approved under this title) during the period covered by the agreement the difference between amount of the State share of such State (as provided in paragraph (1)(B) and an amount determined pursuant to paragraph (1)(A) that represents the amount that such State would have received had the State elected pursuant to paragraph (1)(A) to pay the share under such subparagraph.".

Beginning on page 28, strike section 108 and insert the following new section:

SEC. 108. DISCRETIONARY BRIDGE PROGRAM.

Section 144 of title 23, United States Code, is amended to read as follows:

"SEC. 144. DISCRETIONARY BRIDGE PROGRAM.

"(a) PURPOSE.—Congress finds and declares it to be in the vital interest of the Nation that a discretionary bridge replacement and rehabilitation program be established to enable States and Federal agencies to replace and rehabilitate high cost highway bridges over waterways, other topographical barriers, other highways, or railroads when the State or Federal agencies and the Secretary find—

"(1) that a bridge is important;

"(2) that the bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence;

"(3) that the bridge poses a safety hazard to highway users;

"(4) that the replacement or rehabilitation of the bridge would minimize disruptions, delays, and costs to users; or

"(5) that the replacement or rehabilitation of the bridge would provide more efficient routes for emergency services.

"(b) INVENTORY; ASSESSMENT; IMPROVEMENT CATEGORY; COST.—The Secretary, in consultation with the States, shall—

"(1) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

"(2) assess each bridge from the standpoint of safety and adequacy to serve traffic; and

"(3) based on the assessment described in paragraph (2), assign each bridge to one of the following improvement categories:

"(A) Replacement.

"(B) Rehabilitation.

"(c) APPROVAL OF FEDERAL PARTICIPATION.—In approving projects under this section, the Secretary shall give consideration to projects that will remove from service bridges most in danger of failure. For bridges on the National Highway and Bridge System, the Secretary may approve Federal participation where a determination as to need, type of improvement and timing have been established through a bridge management system approved by the Secretary. On other public roads the Secretary may approve Federal participation if the agency with jurisdiction over the bridge has a bridge inspection and inventory program that meets the requirements of the National Bridge Inspection Standards (NBIS).

"(d) ELIGIBLE ACTIVITIES.—

"(1) HIGH PRIORITY DEFICIENCIES.—Discretionary Bridge program funds may be used to correct normally ineligible safety related bridge deficiencies that have been identified as high priority by the Secretary. A State shall submit a strategy, work plan and timetable for approval by the Secretary before bridge funds can be used to correct deficiencies. Removal of deficiencies identified as high priority by the Secretary is mandatory for any bridge improvement under the discretionary bridge program.

(2) REPLACEMENT AND REHABILITATION.—Discretionary Bridge program funds may be used for replacement and rehabilitation.

"(e) ALLOCATION.—Amounts available for the discretionary bridge program shall be allocated to States at the discretion of the Secretary. For projects for bridges—

"(1) with a replacement or rehabilitation cost of $20,000,000 or more; or

"(2) with respect to which more than 10 percent of a States annual Federal highway apportionment is expended.

"(f) TOLL BRIDGE ASSESSMENT.—Applications for funding under the Discretionary Bridge program must include a comprehensive assessment of—

"(1) the feasibility of constructing a toll bridge; and

"(2) the option of using combination of funds other than Discretionary Bridge Program funds.

"(g) SELECTION OF PROJECTS.—In selecting projects for the Discretionary Bridge Program the Secretary shall consider—

"(1) the bridge rating factor which includes, but is not limited to serviceability, safety, essentiality for public use, traffic volume, and cost;

"(2) whether the bridge is closed to traffic or has severe load limits;

"(3) the need for equitable nationwide distribution of funds;

"(4) the need to continue or complete projects already begun with discretionary funds; and

"(5) other factors that the Secretary deems appropriate.

"(h) OBLIGATION AND ADMINISTRATION OF PROJECTS.—Discretionary bridge projects on the National Highway and Bridge System shall be obligated and administered under National Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge System shall be obligated and administered under Na-

tional Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge system shall be obligated and administered under urban and rural highway and bridge program procedures.

"(i) THE GENERAL BRIDGE ACT OF 1946.—Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of the General Bridge Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters—

"(1) that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(2) that are—

"(A) not tidal waters; or

"(B) if tidal waters, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

"(j) REHABILITATE DEFINED.—As used in this section the term 'rehabilitate' in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

"(k) FEDERAL SHARE PAYABLE.—The Federal share payable on account of a project under this section shall not exceed 85 percent of the cost of the project.".

On page 4, strike lines 16 through 22 and insert the following new paragraph;

(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—For the National Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

On page 5, strike lines 3 through 8 and insert the following new paragraphs:

(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—For the Urban and Rural Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

(4) DISCRETIONARY BRIDGE PROGRAM.—For the Discretionary Bridge program $230,000,000 for fiscal year 1992, $280,000,000 for fiscal year 1993, $330,000,000 for fiscal year 1994, $380,000,000 for fiscal year 1995, and $440,000,000 for fiscal year 1996.

On page 5, line 17, strike "(5)" and insert "(6)".

On page 6, line 1, strike "(6)" and insert "(7)".

On page 6, line 9, strike "(7)"; and insert "(8)".

On page 6, line 19, strike "(8)"; and insert "(9)".

On page 6, line 23, strike "(9)"; and insert "(10)".

On page 7, line 4, strike "(10)"; and insert "(11)".

On page 7, line 12, strike "(11)"; and insert "(12)".

On page 7, line 18, strike "(12)"; and insert "(13)".

On page 8, line 10, strike "(13)"; and insert "(14)".

On page 12, beginning on line 19, strike "Surface Transportation Program" and all that follows through the period on line 20 and insert "National Highway and Bridge Program or for the Urban and Rural Highway and Bridge Program as if the funds had been apportioned for the programs.".

Beginning on page 30, strike section 109 and insert the following new section:

SEC. 109. MAINTENANCE.

Section 116 of title 23, United States Code is amended to read as follows:

§ 116. Maintenance

"(a) DUTY TO MAINTAIN.—It shall be the duty of the State transportation or highway department to maintain, or cause to be maintained, any project on the National Highway and Bridge System constructed with the aid of Federal funds under this title or under the provisions of prior Acts. Each State shall use sums needed from its National Highway and Bridge Program apportionment to ensure adequate maintenance of the Interstate System. If the Secretary finds that a State is not adequately maintaining the Interstate System, the Secretary will require the State to program amounts from its National Highway and Bridge Program apportionments to bring the Interstate System up to adequate condition and keep it in that condition. The State's obligation to the United States to maintain a project shall cease when it no longer constitutes a part of the National Highway and Bridge system.

"(b) STATE AGREEMENTS WITH LOCAL OFFICIALS.—In any State where the State transportation or highway department is without legal authority to maintain a project within a municipality or within an Indian reservation, the transportation or highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the municipality or Indian tribe.

"(c) WITHHOLDING PROJECT APPROVAL.—If at any time the Secretary shall find that any project on the National Highway and Bridge System constructed under this title, or constructed under the provisions of prior highway Acts, is not being properly maintained, the Secretary shall call that fact to the attention of the State transportation or highway department. If, within 90 days after receipt of the notice, the project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which the project is located, whichever the Secretary deems most appropriate, until the project shall have been put in proper condition of maintenance.".

On page 34, line 21, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

Beginning on page 34, strike line 23 and all that follows through page 35, line 4.

On page 53, line 10, strike "section 133(c)(2)" and insert "the Urban and Rural Highway Bridge Program".

On page 57, strike lines 14 through 18.

On page 57, line 19, strike "(c)" and insert "(b)".

On page 58, line 3, strike "(d)" and insert "(c)".

On page 71, beginning on line 4, strike "Surface Transportation Program project" and insert "National Highway and Bridge Program project, Urban and Rural Highway Bridge program project,"

On page 74, beginning on line 1, strike "Except as provided" and all that follows through "Transportation Program" on line 3 and insert "Projects".

On page 79, line 10, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 84, beginning on line 17, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 96, strike lines 6 through 17.

On page 96, line 22, strike "'metropolitan area'".

On page 97, strike lines 22 and 23.

On page 103, beginning on line 20, strike "Surface Transportation Program" and insert "Urban and Rural Highway and Bridge Program".

On page 104, strike lines 14 and 15 and insert the following new subparagraph:

(A) Subsection (a) is amended by striking "section 117 of this title" and inserting in lieu thereof "for the Urban and Rural Highway and Bridge Program".

On page 105, strike lines 16 through 21 and insert the following new subparagraph:

(A) Subsection (a) is amended—

(1) by striking "located on a Federal-aid system" and inserting in lieu thereof "constructed under this chapter"; and

(2) by striking "in section 117 of this title" and inserting in lieu thereof "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 196, line 3, strike "SURFACE TRANSPORTATION PROGRAM" and insert "URBAN AND RURAL HIGHWAY BRIDGE PROGRAM".

On page 106, line 8, strike "section 104(b)(1)" and insert "the Urban and Rural Highway and Bridge Program".

On page 106, line 10, strike "AND PRIMARY" and insert "AND NATIONAL HIGHWAY AND BRIDGE PROGRAM".

On page 110, beginning on line 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program, Urban and Rural Highway and Bridge Program".

On page 112, beginning on line 19, strike "Federal-aid primary": and insert "National Highway and Bridge".

On page 111, line 7, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 111, strike lines 11 through 17 and insert the following new paragraph:

(22) Section 217 is amended by striking in each of the 2 places it appears "in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title" and inserting in lieu thereof in each place "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 112, lines 9 and 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 112, beginning on line 20, strike "surface Transportation Program" and insert "National Highway and Bridge Program".

On page 122, line 7, strike "or device," the first place it appears.

On page 124, line 2, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, line 3, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, lines 8 and 12, insert an ending quotation mark before the period.

On page 123, line 18, strike "set forth in section 120(a)" and insert "85 percent".

At the appropriate places in the bill, conform the analysis and the section numbers of title 23, United States Code, to the forgoing and following amendments.

At the appropriate place in the bill, insert the following new sections:

SEC. . ELIMINATION OF I-R4 PROGRAM.

(a) IN GENERAL.—Section 104(b)(5) of title 23, United States Code is amended by striking subparagraph (B).

(b) CROSS-REFERENCE.—Notwithstanding any other provision of law, any reference to subparagraph (B) section 104(b)(5) of title 23 of the United States Code shall have no force or effect.

(c) INTERSTATE SYSTEM RESURFACING.—Title 23 of the United States Code is amended by striking section 119.

(d) CROSS-REFERENCES.—Notwithstanding any other provision of law, any reference to section 119 of title 23, United States Code, shall have no force or effect.

SEC. . MINIMUM ALLOCATION.

(a) 90 PERCENT MINIMUM ALLOCATION.—Subsection (a)(3)(A) of section 157 of title 23, United States Code is amended to read as follows:

"(A) GENERAL RULE.—In each fiscal year, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that the total of apportionments and minimum allocation for each State in each such fiscal year shall not be less than 90 per centum of the percentage of estimated tax payments into the Highway Account of the Highway Trust Fund, attributable to highways users in the State (in the latest year for which such data are available) of total apportionments in each such fiscal year and allocations for the prior year (except allocations for emergency relief, forest highways, Indian reservation roads, parkways and park roads, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982).".

(b) HOLD HARMLESS.—Subsection (f) is added to section 157 of title 23, United States Code to read as follows:

"(f) HOLD HARMLESS.—In each fiscal year the Secretary shall allocate among the States amounts sufficient to ensure that each State's total apportionment from the Highway Account of the Highway Trust Fund for the year is not less than that made during the 1991 fiscal year (excluding any interstate construction funds in excess of fiscal year 1992 one-half percent minimum, interstate substitution, and amounts for demonstration or discretionary funding programs or projects.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 157 of title 23, United States Code is amended by striking "primary, secondary, interstate, urban, bridge replacement and rehabilitation, hazard eliminations, and rail-highway crossings" and inserting in lieu thereof, "Interstate, National Highway and Bridge Program and Urban and Rural Highway and Bridge Program".

(2) Subsection (d) of said section is amended by striking "section 154(f) or 158(a) of this title or any other provision" and inserting in lieu thereof "a".

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. ADAMS. Has the Senator completed his action?

Mr. DOMENICI. No, I have not. I have not started yet.

AMENDMENT NO. 314

(Purpose: To provide states with the authority to commit up to 1/4 of 1% of highway funds to support on-the-job training programs)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 314.

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

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

The amendment is as follows:

S. 1204, the Surface Transportation Efficiency Act of 1991, is amended by adding the following section in the appropriate place:

SEC. . HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

Mr. DOMENICI. Mr. President, this amendment reinstates, if it finally becomes law, a program that would permit any State—just permissive, not mandatory—to use up to one-quarter of 1 percent of the moneys that it gets under this bill and under any bridge construction bill for a minority skill training program. We had this in law heretofore. For a period of time it was removed because we had some problems. It has now been perfected, and the States that are using it—they are many in number—everyone assumes they are doing a good job.

They do not have to do this and they do not have to use one-quarter of 1 percent. But they may. And this is permitting a number of minority workers to get trained in the skills required in the various jobs that pertain to highway and bridge construction.

Mr. President, the amendment that I believe is noncontroversial and should not take a great deal of the Senate's time.

Under the Federal-aid Highway Act, there is a program called the Supportive Services, On-The-Job Training Program. The purpose of this program is to provide skill training to minority groups and women.

In New Mexico, this has been a particularly important program in training unskilled individuals.

Despite the successes of this program in my State, in fiscal year 1989, the program was zeroed out in the Appropriations bill, at the administration's request, because of some abuses that had been identified in two Inspector General reports.

However, these abuses were limited and occurred in only a few States. Consequently, despite the fact that this has been a highly successful program in many States, everyone was to suffer because of the abuses of a few.

Consequently, I offered and had accepted an amendment to the Transportation appropriations bill that provided, at a State's discretion, the ability to use up to one-fourth of 1 percent of a State's interstate, primary, secondary, urban, bridge, hazard elimination, and rail-highway crossings apportionments to carry out skill training.

The authority provided under that bill will expire at the end of this fiscal year.

Therefore, Mr. President, the amendment I am offering simply allows the program to continue in those States that are willing to commit a portion of their Federal-aid highway apportionments for skill training. The amendment is identical to the amendment approved 2 years ago on the appropriations bill, except that it has been updated to properly reference highway categories.

By turning the decision to the States on whether or not to use Federal highway funds for this program, ensures that the kinds of abuses cited in the IG reports will not occur again. This amendment allows those States where this program has been a success to continue this valuable service to unskilled individuals.

I urge the Senate to accept this amendment.

It is my understanding that the majority and the minority have no objection to this amendment.

Mr. BURDICK. That is correct. There is no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 314) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 315

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk shortly. I want to read the operative language because I believe it explains the amendment.

We are talking in this bill about intelligent vehicle highway systems technology. This amendment that I am going to send to the desk essentially would add the following language: The development of a technology base for intelligent vehicle highway systems

and the establishment of the capability to perform demonstration experiments utilizing existing national laboratory capability where appropriate, and the facilitation of the transfer of transportation technology from the national laboratories to the private sector.

The PRESIDING OFFICER. Once again, the amendment by the Senator from West Virginia will be set aside.

AMENDMENT NO. 315

(Purpose: To add a provision to part C of the bill relating to the Intelligent Vehicle-Highway Systems Program to enable the Secretary to take advantage of the state of the art expertise at the national laboratories)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 315.

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

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

The amendment is as follows:

On page 151, line 10, strike out "and".

On page 151, line 15, strike out the period and insert in lieu thereof a semicolon.

On page 151, between lines 15 and 16, insert the following:

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS TECHNOLOGY

Mr. DOMENICI. Mr. President, I am very pleased to see that Intelligent Vehicle-Highway Systems [IVHS] technology is part of the integrated transportation strategy we are considering today in the Senate. By including two additional goals of the program, I am offering a simple amendment that I believe further enhances the capability and efficiency of the IVHS provisions of S. 1204.

The first goal encourages the Department of Transportation to utilize existing technologies that have already been developed at our Nation's laboratories. The second goal encourages the sound practice of transferring national laboratory expertise to the private sector.

I would like to take this opportunity to express my support for incorporating IVHS technologies into America's transportation infrastructure, and explain the intent of my amendment.

Since 1956, United States road travel has more than tripled. The miles driven continues to increase at 5 percent per year. In the period from 1970 to 1985, the vehicle population increased by 63 percent. All of this has occurred on an aging highway infrastructure that reaches to the far corners of the Nation.

Projections suggest that these increasing travel trends are likely to continue well into the next century and further congest our roads and highways. Yet, intelligent vehicle-highway systems, otherwise known as "smart highways," offers a solution to increasing the efficiency of our highway system, thereby reducing congestion, without expanding existing highway physical capacity.

My colleague, Senator CHAFEE, has stated, "We cannot build our way out of congestion problems by merely adding more lanes of highways. Before you know it, each new lane is as congested as the old." IVHS technologies will be a key component to relieving traffic congestion, preventing accidents, and conserving fuel and energy.

Today I am offering an amendment to ensure that tax dollars invested in this worthwhile program are spent in the most efficient manner possible, without any unnecessary research duplication.

My amendment simply encourages the Department of Transportation to utilize existing National Laboratory capabilities where appropriate, and to encourage the transfer of IVHS technologies from the Federal labs to the private sector.

As some of my colleagues may be aware, solid, proven IVHS technology has already been extensively developed by the Department of Energy [DOE]. In my role as a member of the Senate Energy and Natural Resources Committee, I am well aware of the resources that DOE has invested in smart highways technology, and I am offering this amendment to ensure that our past investment will earn dividends long into the future.

The transportation sector accounts for 60 percent of the petroleum consumption in the United States and is a major contributor to air pollution. Consequently, the DOE, in carrying out its mission in energy and environmental areas, has a strong interest in transportation issues.

Additionally, DOE has the responsibility for the safe and secure shipping of special cargo—nuclear materials and nuclear weapons—in the United States. As a result, the DOE national laboratories have developed over the past 15 years an extensive transportation technology base including advanced vehicle communications systems, traffic management software, route planning, geographic information systems, and design and testing of intelligent electronics systems.

The DOE has demonstrated competence in performing large-scale system simulations on high performance computers and in working with industry to conduct large development programs. The vertically integrated approach to technology development, as well as their experience in traffic management systems places the DOE national laboratories in a unique position.

These facts, coupled with the extensive combustion research facilities and the materials research and engineering capabilities at the national laboratories, form the basis for a strong multiagency program to improve transportation in the United States.

Our existing taxpayers' investment in the technology base at DOE labs should be utilized to the greatest degree possible to leverage any new funds expended to develop this smart highways program.

I hope my colleagues in the Senate will recognize the practical and economic benefits of both this amendment and smart highways technology.

Mr. President, essentially what we have done here is to say that as the United States of America engages in this new intelligent vehicular transportation on our highways that we should, where we can, avail ourselves of the exceptional talent already in our national laboratories.

If we had not put this in—we have had experience heretofore that they would get excluded. We think they might have a role. If they do, we already have them there and certainly we ought to use them. That is what the amendment does.

I understand the majority and the minority have no objection to the amendment.

Mr. BURDICK. Mr. President, we have no objection.

Mr. SYMMS. There is no objection on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 315) was agreed to.

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

Mr. DOMENICI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 294

Mr. ADAMS. I understand this amendment has been cleared on both sides. I am joined in this by Senator GORTON, the junior Senator from the State of Washington.

This amendment would allow Washington State the ability to construct a vital link in its transportation system that was destroyed in floods that occurred there last fall.

The problems surrounding the sinking of Lacey V. Morrow Bridge on I-90 in Seattle is important to Washington State.

I appreciate very much the managers on both sides agreeing to this amend-

ment. The bridge was very important, and it was a part of a final link in the Interstate System. Those sections of the bridge that sunk were to be dedicated primarily to HOV, bicycle and pedestrian use.

The State needs to replace the bridge immediately, but the Federal emergency relief funding to repair it is contingent on no contractor liability. The contractor liability issue in this situation probably will take years of litigation to settle.

In the meantime, the State needs Federal assistance to go forward to rebuild the HOV interstate bridge. The State will pay its local share under this amendment and agrees to reimburse the Federal Government to the degree of any contractor negligence.

Federal emergency repair funding is the most important use of Federal funds. No community can plan for the type of flooding that occurred in Washington last fall. It is this type of helping hand from the Federal Government that marks the strength in the confederation of all the States.

The amendment on the State ferry system is needed to assist the Washington Department of Transportation to operate and compete in the most efficient manner in its highway function. The amendment is needed to ensure adequate service to some Puget Sound communities that are totally dependent on the ferries for surface transportation to the mainland.

The Washington State ferry system carries more passengers annually than Amtrak and is an integral part of Washington's highway and mass transit systems. This amendment assures that Washington State can spend its Federal funds in the manner that it deems best.

I want to thank the committee for its work and consideration of these important amendments for Washington State.

Mr. GORTON. Mr. President, the senior Senator from Washington has accurately described the amendment. It is very important to us in connection with that disaster and the completion of Interstate 90. I know I speak for both of us when I thank the managers of the bill for their acceptance of the amendment.

I also would like to say that there is a companion amemdment to it which I will seek recognition to offer when this one is dispensed with.

The PRESIDING OFFICER. The Byrd amendment will be set aside temporarily.

AMENDMENT NO. 294, AS MODIFIED

(Purpose: To authorize advance emergency relief funds)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], for himself and Mr. GORTON, proposes an amendment numbered 293, as modified.

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

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

The amendment is as follows:

In the appropriate place add the following new section:

"SEC. . EMERGENCY RELIEF ADVANCES.

The Secretary shall advance emergency relief funds to the State of Washington for the replacement of a bridge on the Interstate System damaged by November, 1990 storms notwithstanding the provisions of section 125 of title 23, United States Code. The State of Washington shall repay such advances to the extent that a final court judgment declares that damage to such bridges was a result of human error."

Provided, That this provision shall be subject to the Federal share provisions of section 120, title 23, U.S.C.

Mr. BURDICK. We have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 294), as modified, was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to table is agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily laid aside in order to consider an amendment.

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

AMENDMENT NO. 316

(Purpose: To authorize funding flexibility for public ferry systems)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself and Mr. ADAMS, proposes an amendment numbered 316.

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

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

The amendment is as follows:

On page 40, line 3, replace the period with a comma and insert "except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system."

Mr. GORTON. Mr. President, the original form of this amendment was amendment No. 292 which was cleared with both the majority and the minority. There was an objection to one section of it, a legitimate objection, I felt, on the part of the senior Senator from Oregon. In the short time we had available, we were not able to work out an acceptable accommodation to both sides. Therefore, in this revised amendment that portion of the original amendment which was in question is stricken.

This amendment has to do with fairness, Mr. President, and it is particularly important to transportation in the State of Washington. Our ferry system carried 21 million people last year—almost as much as Amtrak did nationwide. There is at the present time and there is under this bill a certain degree of mass transit assistance for ferries going between two places in the same State. In our system, however, some of the ferries serve both urban and nonurban routes. This simply allows the transfer and the more efficient management of the ferries so ferries which were used part time in nonurban routes can also be eligible for mass transit assistance when they are utilized on an urban route.

Mr. ADAMS. Mr. President, I agree with the statement of the junior Senator from Washington. This is an important amendment. It is part, again, of the total road system of the State of Washington. We urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. I support the amendment.

Mr. MOYNIHAN. There is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 316) was agreed to.

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

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. SYMMS. I ask unanimous consent that the Senator from Alabama [Mr. SHELBY] be added as a cosponsor of the earlier Symms amendment dealing with private property.

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

Mr. SYMMS. I further ask unanimous consent that Senator SYMMS and Senator CRAIG be added as cosponors to Senator DOMENICI's amendment that just passed dealing with the national laboratories.

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

Mr. MOYNIHAN. Mr. President, once again, on behalf of indefatigable comanager here, I would like to say the bill is open to amendment. Senators who have amendments are urged to come to the floor. This bill is moving

along rapidly now. We would not want to close out any opportunity. Yet we are under a Presidental injunction to have this matter out of the Senate Chamber by—I will not say Friday, because we have to finish this tomorrow, and we will, and we do not want Senators to lose an opportunity available to them.

Seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistanct legislative clerk proceeded to call the roll.

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

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

Mr. SMITH. Mr. President, I seek recognition to speak on behalf of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, in his recent address, President Bush challenged Congress to a variety of domestic goals, including the enactment of a highway bill within 100 days. We have not quite met that, but I commend Senators MOYNIHAN, BURDICK, SYMMS, and CHAFEE for striving to meet this deadline with their innovative, imaginative, and forward-looking transportation proposal, S. 1204.

Mr. President, S. 1204 cleared the Environment and Public Works Committee by a vote of 15 to 1 on May 22. I am pleased to have played a small part in approving this legislation at the committee level.

The premise behind S. 1204 is quite simple: Now that our existing system of Interstate Highways is complete, the principal aims of highway assistance should be to promote energy efficiency, reduce congestion, and enhance the efficiency of surface transportation. I agree wholeheartedly with this forward-looking approach put forth by the Senator from New York.

In terms of our economy, demographics, technologies, institutions, and family lifestyles, the United States has changed profoundly over the last four decades. These changes have prompted changes in our infrastructure needs as well: Instead of a lack of roads or new highway lanes, we face today the new challenges of crushing traffic congestion, air quality mandates, land scarcity, and dilapidated highways.

The Senator from New York and his colleagues have looked very carefully at these problems and looked into the future. That is something we do not always get the opportunity to do or do not take the opportunity to do.

However, our current Federal surface transportation policies do not reflect these nationwide changes. Instead, they reflect political goals and decisions and institutional arrangements established decades ago—some dating back to the year 1916.

Now we have an opportunity to update our surface transportation policies. S. 1204 reflects the transportation realities of today and the future by giving States the flexibility to balance competing demands on limited transportation resources. I repeat and I think it is a very important aspect of this bill: It gives the States the flexibility that they need.

S. 1204 does away with our old, outdated system of primary and secondary roads and replaces it with a flexible, new surface transportation fund. Under the bill, States can use money in this new fund on any surface transportation projects, including highways, bus systems, and commuter railroads. I support this concept.

As a former member of the House Science, Space, and Technology Committee, I also favor the bill's emphasis on magnetic levitation and intelligent vehicle technology. Both are consistent with our environmental needs, good for economic competitiveness, and positive from an energy conservation standpoint.

As a staunch supporter of energy conservation, I am pleased that S. 1204 avoids basing State funding formulas on vehicle miles traveled. Transportation already accounts for 70 percent of all petroleum use—an amount that equals imports. To use vehicle miles traveled as the basis for highway apportionments would just encourage more driving, and therefore more oil consumption. S. 1204 takes a far more creative approach to funding formulas—one that is consistent with energy conservation and environmental goals and meets the needs of our highways throughout the Nation.

I also want to thank Senators MOYNIHAN and SYMMS for agreeing to incorporate language into S. 1204 that will exempt small cities in rural areas from the comprehensive MPO planning provisions in the bill. Senator SYMMS' amendment takes into account the limited resources of at least three cities in my State, and of many more areas of between 50,000 and 250,000 population. While I was away from the floor at the hour that the debate on this amendment occurred this afternoon, I want to be on record as supporting it. I proposed a very similar amendment during the committee markup of S. 1204.

At that time, the Senator from New York promised me that he would give this matter the utmost consideration, and the Senator from New York kept his word. I appreciate that very much.

I urge my colleagues to support this very innovative, environmentally responsible bill that meets the needs of our highway system.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I can speak on behalf, and I am sure I can, of my comanager, Senator SYMMS, we would like to thank Senator SMITH for his thoughtful comments. I only object that he is much too modest about his own role in the development of this legislation, which is a bipartisan measure. It came out of our committee 15 to 1, and it was consistently improved and enhanced by Senator SMITH'S comments and suggestions. The bill is his as much as it is any other Member's, in particular the emphasis on science and technology.

We are dealing with a problem here which we call public sector disease. That is an area of the public sector where moneys come in and are expended with no test of cost effectiveness. As such, there is no urgent need to be competitive with some other system elsewhere. By definition, roads are a monopoly, where the aspects of productivity just do not force themselves into the minds of the managers.

As the Senator from New Hampshire knows, productivity in this field of transportation altogether has been growing, if growing is the term, at the rate of only 0.2 percent in the last 15 years. That is a medieval rate; it takes 350 years to double. Manufacturing of durable goods of the kind you see all over southern New Hampshire has been growing at a rate of 6 percent. I bet last evening with Mr. Allaire, the new CEO of the Xerox Corp., and he said, "Oh, yes, in Xerox we have to keep our productivity of 5 or 6 percent a year or we cannot keep up with the Japanese. And we do." But somehow we do not see this sector of the economy as having the same requirements.

If I can make one demonstrative point. We still collect tolls by hand from people sitting and standing in booths. As the Senator from New Hampshire knows—he mentioned the intelligence vehicle highway system—very simple electronics available to us now can record the fact that the car is using a bridge and have it posted to a bill sent out once a month. Very efficient. Such a system would reduce pollution and waste of fuel that comes when cars have to stop in a long row and wait. The whole notion that we should reward increases in consumption of fuel is just the opposite of what our purposes should be

We mean to pass this bill, and then we mean to follow its progress. We are very much interested in giving the different States, which have different ideas, opportunities to test, to innovate, to adapt, to learn from each other and from their mistakes. There are plenty of mistakes around, in transit no less than highways and rail.

I particularly note that the Senator from New Hampshire did ask that we revise the Metropolitan Planning Orga-

nization provisions to exclude small communities that really do not need them. If they do not need them, we do not want to force anybody to do anything that they do not need to do. Senator SYMMS did offer that amendment. It is exactly what the Senator from New Hampshire had proposed in committee. We said we would take it up on the floor. I am sure that Senator SYMMS would want Senator SMITH to be known as a cosponsor.

Mr. SYMMS. That is correct. I rise to my feet to make sure that Senator SMITH is included as a cosponsor on the Symms amendment on MPO's earlier today.

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

Mr. MOYNIHAN. I thank our valued and learned colleague

Mr. SMITH. I thank the Senator from Idaho and the Senator from New York.

Mr. SYMMS. Mr. President, I would like to join the manager of the bill in thanking our new member of our committee, Senator SMITH, from New Hampshire. He has already become a very valued member of the committee, and we appreciate his input on the committee. He spoke very well in the committee with respect to this entire subject of metropolitan statistical areas and MPO's, and so forth, and we appreciate his input and contribution to the committee.

Mr. President, if no other Senators are going to seek the floor, I will just say again that this bill is winding down. We still have the one major issue to determine, that is the allocation formula that there has been some discussion about. If those Senators who have been engaged in this debate in the back rooms do not have anything to bring in and offer the Senate, I know of no other amendments that are here. So if there are Senators who have amendments, now is a good time to offer them because I believe, once we settle the bonus allocation question that Senator BYRD has offered, then this bill will move rather fast. We have several other amendments that I have on my list that Senators have yet to come forth to offer. Some of those are controversial and will require some debate and I believe record votes. So I hope Senators will bring them to the floor.

Mr. President, I ask unanimous consent that I might speak out of order as though in morning business for 1 minute.

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

RESPONSIBILITY AND THE COLLEGE GRADUATE

Mr. SYMMS. Mr. President, I have the privilege of being on the board of directors of a small liberal arts college in Idaho, the College of Idaho, in Caldwell, ID, which has just recently celebrated its 100th anniversary. This college has an excellent record and reputation and has produced many Rhodes scholars and many students who have gone on to achieve higher education in other places.

At their recent commencement, when I was at home in Idaho during the break, we received an excellent commencement address from Mr. Spencer Eccles, who is the chairman of the First Security Corp., from Salt Lake City. I will ask unanimous consent that his speech to the college commencment and to the young students be printed in the RECORD. I note that he encouraged those young college students to participate in their responsibilities of citizenship and in the preservation of the market economy. I urge all my colleagues to read this speech. It is an excellent speech given to a fine young graduating class at a fine young private institution in my State. I ask unanimous consent that his speech be printed in the RECORD following my remarks.

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

RESPONSIBILITY AND THE COLLEGE GRADUATE

(Commencement address presented by Spencer F. Eccles)

Ladies and gentlemen—It is a great privilege to share this important occasion with you—the graduates—along with your families, friends and professors. I sincerely commend each of you for the long years of work that have culminated in the degrees you are receiving today from the College of Idaho. You, as graduates, and we, as members of the community, own a large debt of gratitude to the administration and professors who have provided you with this solid educational opportunity. I am confident that your training at this institution of higher learning will bear fruit for you, for your families and for your communities in the years ahead.

In 1959, I sat with the graduating class at Columbia Graduate School of Business in New York City, listening to the commencement speaker (I think it was C. Douglas Dillion, the Secretary of the Treasury) described the challenges which lay ahead for my generation. Now, after thirty-two years of conducting banking business with many people in all parts of the U.S., I feel, today, as though I have traveled full circle. While the outward appearance of your world in 1991 is vastly different from my world of 1959, there are timeless principles that are directly related to individual happiness and society's well-being. In the next few minutes, let me discuss with you three interrelated responsibilities that you and I, individually—and we as a society, collectively—must assume, particularly in light of the issues we will face during this decade of the '90s and in the years beyond. Those responsibilities are:

First: An appreciation for and the preservation of the Free Enterprise System; second, moral and ethical standards of human behavior; and third, a life-long commitment to education.

In 1776, the founders of our nation drafted documents providing for the political and individual freedom of each citizen. In that same Year—1776—a Scotsman, Adam Smith, the father of economics, published his book, The wealth of Nations, which was the first systematic description of the fundamental principles of a market-oriented or free enterprise economy. The founders of our nation adopted a system of government that declared men are free. But it was Adam Smith who enunciated a system of economic principles whereby free men can realize the fruits of their own toil, and in so doing, seem to be guided as if by an invisible hand to contribute to the overall well-being of society and their fellow men. In the words of Adam Smith, "It is not from benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but their regards to their own interests."

I strongly support the principles of a free enterprise, market-oriented economy. Not only is it the most efficient way to allocate our scarce resources among competing wants, but it is a critical factor in maintaining our individual and political freedoms. I believe that democratic capitalism in its entirety is very much dependent upon a free, growing and vibrant economic environment and an educated and well-informed citizenry.

Last September, I was with my family in Berlin and saw with my own eyes the remarkable events transpiring in eastern Europe that symbolically climaxed in the crumbling of the Berlin Wall. As the physical slabs of cement crashed to the ground, a politically and economically bankrupt system lay exposed to the world. Fifty years of heated philosophical discussions regarding the pros and cons of a cxentrally planned economy were now mute. Not only had the system failed to provide a bare minimun of desired goods and services, but it has virtually destroyed the infrastructure and disastrously polluted the water and the air.

Perhaps the greatest tragedy, however, was the demoralization of human spirit. Free enterprise begins with the individual and his ideas, his faith in the future, and his capacity for work. These creative qualities, which we call the "entrepreneurial spirit," were essentially obliterated under the communist dictatorship.

How can we summarize the essence of such monumental events into simple principles that can have meaning for our individuals lives? Let me suggest three ideas for your consideration:

I. There is no such thing as a "free lunch."—Not even the air we breathe is a free economic good. All production is a combined result of effort and capital. The full costs of that production are ultimately borne by society. If an inequitable economic system allows someone to reap what they have not sown, then you can be assured that others are sowing what they cannot reap.

II. Free-market incentives are far superior to government subsidies.—The highest motivation of a faceless bureaucracy ultimately is to perpetuate its own position and survival. In the end, the nature of subsidies and the attitudes of those who administer them are almost always counterproductive to enlarging the overall standard of living.

III. Innovation and productivity flourish when individual effort is directly related to income.—Incentives and bonuses tied directly to individual and corporate performance work wonders in building economic progress.

So, I say, let's be proud of our free enterprise system! Certainly, there are many areas where government has to take a part, but let's reverse the trend toward such big government and the philosophy of "Let the government do it because Uncle Sam has unlimited funds and, besides he can do it better." You know better than that, because in

essence, faced with the disgrace of our unrelenting budget deficits, the government now has to borrow funds to carry out its programs.

The second area of responsibility is adhering to high moral and ethical standards of individual behavior. I am speaking specifically about integrity and honesty, the quest for excellence and the necessity of caring about and being involved with others.

At First Security Corporation, we have over 5,000 employees. Frequently, I am asked which individual characteristics correlate most closely with achievement and success. You may be surprised that, inevitably at the top of the list, are honesty and integrity. All too often we hear the old cliché, "business is business," expressed as justification for deceptive, dishonest or underhanded business practice. You should clearly understand that such practices are not my kind of business, and I would urge you to make certain that they never become your kind of business.

The newspapers are filled with seemingly endless examples of scandals in business, religion, government and politics. Insider-trading on Wall Street; extravagant, immoral lifestyles wrapped in the cloak of religion; misappropriations of public funds; and influence peddling at the highest levels of government—these all come to mind. Critics suggest that TV's J.R. Ewing of "Dallas" lives as the great American symbol for "business as usual." Despite these numerous seedy or sordid examples, may I reassure you that honesty and integrity have not gone out of style. Employees in the banking industry must adhere to an extremely high standard of personal conduct, and although breaches do occur far too often, any instance of dishonesty, or even attempts to manipulate the truth are the basis for great concern and may be grounds for dismissal.

May I stress—and please carefully note—I don't think there is any conflict between the virtues of a free enterprise market and individual integrity and ethical conduct. It's interesting to note that before Adam Smith wrote The Wealth of Nations, he was a professor of ethics at the University of Glasgow and wrote The Theory of Moral Sentiments, a book describing appropriate moral and ethical standards of human conduct. A belief in free markets in no way absolves an individual from adherence to the highest standards of honesty and integrity.

But what about those people in our society who will inevitably fall between the cracks of a free enterprise system? I strongly believe that individuals and business working in conjunction with appropriate government programs can make a huge difference by voluntarily sharing the bounteous fruits generated by free markets. Vladimir Pozner, a prominent Russian journalist whom you may have seen on American TV, spent his boyhood years in New York City and then returned to America in 1986 after the absence of 38 years. In his book, Parting with Illusions, he describes his initial New York observations and his experience with the forgotten Americans:

"The cops patrolling Washington Square on the lookout for dope peddlers. Kids lining up in the doorways of crack houses in the Village. . . . [People] sleeping on benches and sidewalks in Tompkins Square. Bitterness in the faces of a forgotten America, an America written off by corporate capitalism's ethic.

"Sitting in the lounge and waiting for the early morning express that would whisk me from New York to D.C., I watched as one man, obviously under the influence of wine or drugs, giggled and laughed madly. . . . Finally, . . . he took off his coat, rolled it up, pillowlike, and laid his head on it . . . [and] was instantly alseep . . . [As he] lay there on the bench, . . . another man approached, . . . dressed in what clearly was secondhand clothes. Tall and lanky, he too was drunk or drugged. . . . He sat down next to . . . [the sleeping man] and gave him a tentative shove with one finger. Getting no reaction, he pushed a little harder. Again, nothing. He then gave the coat a tug. And another one. . . . [As the sleeping] man's head slipped down onto the bench . . . [the second individual] picked up the coat, rolled it up even tighter, stuck it under his arm, and, with a sly grin on his face, sidled out of the lounge. The beggar stealing from the poor man.

"There must have been at least fifty people who saw that scene. They watched it out of the corners of their eyes, holding their magazines, morning papers, pocket books in front of their faces. They never said a word. It didn't concern them. Those two men came from a different and dangerous world, a world that, somehow, was not quite America as far as they were concerned."

Well, incidents like this, which are all too familiar to each of us, are not an inherent sickness of the free enterprise system. The usual prescription of this perceived "sickness" is an ever-expanding, tangled web of governmental social welfare programs. The ultimate results of this approach, however, lie with tombstones in Eastern Europe and the USSR. Only you, only I, only we as individuals can solve this problem. If we live with integrity, if families don't fail, if neighborhoods and communities provide a sense of stability, the forgotten Americans will be rediscovered. I believe each of us must develop a social conscience and actively participate with volunteer and church groups and government to improve the quality of life for all people.

The third responsibility before us is a lifelong commitment to education. It is ironic that while the purpose of today's convocation is to celebrate extraordinary educational achievement, the public education system in America is broken and should be rapidly overhauled. In the high-tech world of international competition, the simple truth is, "If Johnny can't read, the U.S. can't compete."

As James Hayes (publisher of Fortune magazine) noted in a speech last month to a Junior Achievement group in Salt Lake City:

"It is not just the 700,000 kids who drop out of high school every year. It is not only the additional 700,000 students who graduate from high school each year so ill-prepared they cannot read the words on their diplomas. Nor is it just the huge number of supposedly educated young people who, after twelve years of school, can't read at a ninth-grade level or who lack the mathematical skills considered the minimum for a seventh grader."

No, it is more than that!

Tens of thousands of American children show up on our college campuses not knowing what the Magna Carta is, what the Reformation was, who wrote the Emancipation Proclamation, or what Brown vs. Board of Education was about.

Former Secretary of Education Terrel Bell, who comes from Utah, said, "The economic well-being of a person, a business or a nation cannot be separated from their educational skills. It's basic economics." While he was Secretary of Education, President Reagan asked him to appoint a blue-ribbon commission to study the U.S. public education system's strengths and weaknesses. The results, entitled A Nation at Risk—The Imperative for Educational Reform In America, sold twelve million copies and clearly analyzed our education problem. Yet, we seem to have made scant progress since the initial excitement of this fine study.

The economic benefits of maximizing the potential of the human brain has been vividly displayed by the Japanese over the past twenty years. Inhabitants of these rocky little islands turned their lack of nonhuman economic resources into an asset by capitalizing on their human resources, and in the process became the world's low-cost, high-quality producer. Perhaps more than any other common denominator, the Japanese economic success rests upon the value they place on education. Education is an investment for and in their children and is viewed as the key to a better life. The Japanese economic miracle fundamentally builds on the principle that investment in education for an individual, a municipality or a nation always pays the highest dividends.

In the recent, controversial book, The Japan That Can Say No, Shintaro Ishihara points out the nearly complete dependence of the U.S. military and nuclear arsenal upon Japanese technology and manufacturing.

"The one-megabyte chip used in computer memory banks has a million circuits on a silicon base one-third the size of the nail on my litter finger. This vital component is made only in Japan. Japanese manufacturers almost completely control the market. The United States has the knowledge but lacks the engineers and technicians to produce these chips. Without an integrated development and manufacturing system, this precious knowledge is wasted."

Micron Technology (headquartered in Boise, Idaho) is however, a good example, where commitment to education and training is altering the Japanese dominance in the semiconductor industry and can make a difference.

Fundamentally, I believe the problem in U.S. education is twofold: One element involves attitudes; the other concerns the system itself.

First, scientific and mathematical skills languish among American students because they require tedious labor that conflicts with our fun-loving, permissive and "get-rich-quick" culture. As expressed by columnist Alston Chase:

"These disciplines are exacting and demand hard work—a notion quite foreign to the view many parents and educators share that learning should be 'fun.' Neither innovation nor money will solve education's basic problems as long as heavy intellectual labor is treated as though it were a symptom of a compulsive psychological disorder."

There has to be a reason why, as The Wall Street Journal reported yesterday,"More than half of U.S. public school high school students still don't take chemistry or advanced algebra before graduation."

Our challenge for future generations is to create a family atmosphere and a support system that place the highest priority on learning and educational excellence. Teachers must both earn and receive the highest positions of respect and honor in our society.

Second, the public education system must be reformed. Schools today are essentially the only institution in our society I can think of that are basically the same as they were a hundred years ago. Public education lacks those vital, market-oriented incentives—such as choice, accountability, decen-

tralization, and performance-based compensation—that are necessary to produce educational excellence.

For example, in President Bush's "America 2000" recently announced education proposal, he calls for parental choice in determining which schools their children will attend. In a scholarly article entitled, "Choice Is a Panacea," John E. Chubb (the Brookings Institution) and Professor Terry M. Moe (Stanford University) provide an in-depth analysis of the critcal necessity for these "market-based control mechanisms" in reforming and improving our educational system.

They point out that nothing in the concept of democracy requires schools be subject to direct control by school boards, superintendents, central offices, departments of education, and other arms of government. They say the state should not be the authority holding schools accountable for student achievement and the quality of school performance. Schools should be held accountable for performance from below—by parents and students who directly experience their services and are free to choose which school they will attend.

It appears well-reasoned that these market-based mechanisms—which include public national assessments, teacher and student accountablilty, choice, parental responsibility, local control, and support for preschool children—are keys to a rejuvenated, resurgent American educational system. But we must go beyond only tinkering to fundamental, far-reaching reforms; otherwise, the leading industries, jobs, products and technologies of tomorrow—the engines of America's future—fall into the hands of those faster, better-educated and tougher-minded. John F. Akers, chairman of IBM Corporation, solidifies the challenge:

"Our democratic structure and economic prosperity depends on a well-educated citizenry. Let's agree on what must be done and work with America's students and their parents, teachers and principals so that each school can, once again, become what it was always meant to be—a building that has four walls with tomorrow inside."

In conclusion, then, let me urge you to contemplete and fulfill the three responsibilites I have discussed. Based upon experiences in my business career, what I have learned as a husband and father, and my deepest personal commitments, I recommend the following course of action to you.

First. Support, sustain and appreciate America's market-oriented free enterprise system. Remember, your vote really does count! Second, live your life and conduct your business with honesty and integrity and with an eye toward a real a social conscience; and third, individually, as parents and as citizens, strive for educational excellence.

Thank you very much for the honor of sharing this special day with all of you graduates, and best of luck in building on your college education for a happy and successful future.

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

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 317

(Purpose: To require erosion control guidelines)

Mr. MOYNIHAN. Mr. President, on behalf of Senator RIEGLE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending Byrd amendments will be laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. RIEGLE, proposes an amendment numbered 317.

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

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

The amendment is as follows:

Add the following new section in the appropriate place:

SEC. . EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the programs of section 319 of the Clear Water Act and section 6217(a) of the Omnibus Budget Reconciliation Act of 1990.

Mr. MOYNIHAN. Mr. President, this is a simple amendment that would have the Secretary of Transportation develop erosion guidelines for new construction such as might take place in the years ahead in the highway system, and there will be new construction.

And there will be new construction. If there is an engineering need for this, it ought to be met. This is not mandatory. This has to do with enriching our manual of road construction, basically. We have no objection to it.

Mr. SYMMS. Mr. President, I will not object to the amendment. I only want to make a brief comment to say that I think what is in the amendment of the distinguished Senator from Michigan I hope is being done, and I do not think it will be inconsistent with or cause much grief for the highway engineers to do this.

But I call to my colleagues' attention section 121 of the bill wherein this bill, which we made such a major effort to return responsibilities to the States, both the money and how to spend it and program designs and efficiencies where States may be able to design construction standards adopted by the States for projects on principal arterials, et cetera, up to standards, this is an amendment I would like to look at a little more. I say for now, accept it. I want to put that one caveat in.

It strikes this Senator that it is slightly inconsistent with the general theme of the bill, although I think it may be that the Senator from Michigan has a good thought, a good plan, and something we should look at. It does not mandate. It does not require. It is to set some guidelines.

Having said that, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 317) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again seeing no Senator seeking recognition, I repeat the desires of the bill managers that anyone who has amendments bring them to the floor because they might look up and find this legislation is out the door. They have been warned. The record will so show.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, we do not want the evening to come to a close without one last request on the part of the managers. If there are amendments Senators would wish to offer, we are here waiting for them. We are beginning to think perhaps there are none, or none we know of. That may be good news.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. With due respect to my great friend, the distinguished senior Senator from New York State, I know the managers understand, as does the majority leader, that this Senator does have an amendment.

This Senator is agreeing with the managers and the majority leader to accommodate the time of the Senate by limiting debate. This Senator would accept half an hour equally divided, or we will talk as long as we want to, or whatever accommodates my colleagues.

This Senator has a very straightforward amendment. I would like to ac-

commodate my colleagues at whatever convenient moment that accommodates them by offering that amendment.

Mr. MOYNIHAN., Mr. President, I only say, which need not be said, that the Senator from Illinois is exactly right. What I said is maybe there are very few amendments left we do not know of.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment of the Senator from Nevada. This issue, billboards, has had a long and complicated history. This section of the Surface Transportation Efficiency Act of 1991 basically does two things: First, it allows States to decide, if they want to remove nonconforming billboards. Second, it allows States to decide how they want to compensate billboard owners when removing nonconforming billboards.

Current law dictates that States must remove nonconforming billboards. Obviously, that hasn't been very successful. A trip down any interstate in America will tell you that. There are still a large number of nonconforming billboards standing.

But, Mr. President, nonconforming does not mean illegal. Therefore, the Federal Government should not dictate they come down. The Federal Government should not require the States to pay more in the way of "just compensation" than the fifth amendment requires. Yet the cash compensation requirement in existing law does just that.

Mr. President, it is the State's zoning that makes a billboard nonconforming, not Federal law. Under this bill, it is the State that will decide if it wants a nonconforming billboard to be removed. The State laws should and will determine how the billboard owner will be compensated. That brings me to the second major aspect included in the highway bill.

S. 1204 merely eliminates the withholding of highway funds from States that choose to remove billboards with amortization. In addition, this bill provides adequate funding for States to provide cash compensation, if they so choose. It is my understanding that several States' constitutions approve of amortization and use it to eliminate other types of nonconforming land uses. Some of the uses include junkyards, trailer parks, grocery stores, dog kennels, auto storage, and trash balers. The amortization periods in these cases ranged from 1 to 7 years. Also, several States are opposed to the concept of amortization and their respective State constitutions articulate that opposition. Opponents to this bill argue that amortization is unconstitutional under the U.S. Constitution. But, the legislative branch of Government is not here to decide the constitutionality of anything. If a constitutional right is being violated by State law, the aggrieved party has a remedy in the courts.

While Congress should probably not waste its time and effort passing laws that are clearly unconstitutional, private citizens do not need a Federal statute to protect a constitutional right. They can protect their own rights through the legal system, because the courts will not allow the States to take a person's property in violation of the fifth amendment.

Mr. President, we should defeat the pending amendment and allow the process proposed by the committee to go forward.

Mr. FORD. Mr. President, I rise in strong opposition to S. 1204, the Surface Transportation Efficiency Act. As presented to the Senate by the Committee on Environment and Public Works, I find it has serious deficiencies which, if not corrected, will impede the efforts of the Commonwealth of Kentucky to meet the transportation needs of its citizens.

According to the Road Information Program, commonly referred to as "TRIP," Kentucky has the 14th largest highway program in the Nation. Yet, of the nearly $1 billion in funds spent in 1990 by the Commonwealth, only 18 percent of those revenues came from the Federal Government's highway trust fund.

So Mr. President, my colleagues can see that the citizens in Kentucky are shouldering almost all of the cost of improving their highways. They are also sending to Washington more gasoline tax money than they get back from the Federal trust fund. We certainly understand that, to build a National Interstate Highway System, some States would have to contribute more than others. But, the interstate is now complete according to the policy statement contained in S. 1204.

We, in Kentucky, had an expectation that the 1991 highway bill would recognize that States like Kentucky should get a fair share of the trust fund revenues. Instead we find that the committee bill not only doesn't do that, it takes even more Federal money away from us. That's right. Instead of at least giving back what we send to Washington, we find the legislation will reduce our apportionment by 10 percent—and that is 10 percent every year for at least the next 5 years or $155.5 million.

I am beginning to believe that Kentucky would be better off if the Federal Government repealed the Federal motor fuels tax and just let the State fund the whole program.

Mr. President, I have studied the allocations contained in S. 1204 and have determined that the principal sponsors of the legislation have done a very able job in representing their own States' interests. Since none of those States are donors, they will be receiving more from Washington than they are sending. That might be supportable if fairness were embodied in the legislation but it is not. In this Senator's judgment, the bill is not even-handed and therefore must be revised.

We have great transportation needs in Kentucky. The Commonwealth wants to participate in the construction of a new interstate which will run from Washington, DC to California. This road, Interstate 66, would traverse Kentucky from East to West. We also would like to finish the Appalachian Corridors Program. Eastern Kentucky has waited 26 years for these vital transportation links to be constructed and they may still be waiting another 26 years from today unless this legislation is changed to include a National Highway System.

My friend from New York might tell me that we can in fact build these roads with the puny funds the legislation would give Kentucky. And maybe that is so. But his bill only provides for a 75 percent Federal share for the construction of these projects while allowing 80 percent funding for the big city projects. Thus, not only are we receiving less Federal money, we are told that projects for rural America are not as deserving as the big city transit or carpool projects.

That is especially difficult for the Commonwealth of Kentucky to accept. We have prefinanced almost $70 million in construction for the Appalachian Corridors Program. At the same time, we see the Federal Government is providing other States with Federal money for their corridors. And this is money which is in addition to other highway trust funds. Look at the record of just the past 5 years. Alabama: $69.8 million; Mississippi: $51 million; New York: $43.4 million; Pennsylvania: $88.9 million; West Virginia: $206 million. What did Kentucky receive? $12 million. The Commonwealth provided nearly six times what the Federal Government has given while our neighbors are raking in Uncle Sam's largesse and not doing any significant prefinancing.

Now along comes S. 1204 and the ARC roads are not put on any National Highway System so the dream of safe roads in the mountains will stay only a dream for my constituents.

The committee bill proposes to invest $5 billion of highway trust fund money for clear air improvements in so-called nonattainment areas. The bill allocates funds based upon population

and the severity of the pollution. In other words, the more people you have and the worse the pollution, the more Federal money you will get. A review of urban areas that will get this money shows that they are the very largest cities in America. Although some smaller cities, including two in Kentucky, will get a little money from this program, it is the big areas which will receive the funds. While I am sure these areas need the money, what troubles me is that the legislation is simply earmarking funds for the big cities to use for nonhighway projects. In fact, the legislation does not even specify what the money will be used for; that decision is being left to the Federal EPA to decide. Who knows what they will come up with?

Up to now I have commented on deficiencies in the legislation. As with any initiative, there are certainly positive as well as negative provisions. Among the good ideas are the completion of the interstate, funding for a bridge program, an intelligent vehicle program and the deletion from the administration's bill of that wrongheaded idea to allow big corporations to have access to develop interstate rest stops.

S. 1204 does provide for a continuation of the university transportation centers. We are blessed with two good programs in Kentucky at the University of Louisville and the University of Kentucky. The immediate past president of the Council of University Transportation Centers is Calvin G. Grayson of the University of Kentucky. He informs me that, as a nation, we devote less than two-tenths of 1 percent of our transportation expenditures to research. The private sector, in contrast, expends as much as 4 percent on research and, in the so-called high technology field, research constitutes as much as 8 percent of total expenditures. The council recommends increasing research modestly to 2 percent of the transportation budget. I urge the bill managers to look seriously at this proposal.

Mr. President, I know the senior Senator from New York and his colleagues on the Environment Committee are sincere in their belief that this legislation is the right course for America to follow to the 21st century. This Senator, unfortunately, does not share their view for the future. Our needs in Kentucky are staggering and they are so very different from those of the big cities like New York or those in New Jersey. Yet, the problems of these urban areas are driving the policy decisions of this legislation. Those priorities just don't make any sense in Kentucky. I would respectfully suggest to my friends who support S. 1204 that it looks like you left the highway out of the highway bill.

On Tuesday, June 5, the senior Senator from California introduced S. 1194, the Federal Mass Transportation Act of 1991. This legislation is the second part of a comprehensive Surface Transportation Assistance Act. The House of Representatives has conveyed jurisdiction over both programs to one committee. But here, two separate bills are necessary because the jurisdiction over highways is in the Environment and Public Works Committee, while transit programs are the responsibility of the Banking Committee.

One of the reasons I believe we are having so much difficulty with S. 1204 is that it attempts to do too much. The legislation not only tries to continue some of the Highway Program, albeit in a new form, but also tries to address serious issues more appropriate, in this Senator's view, for Senator CRANSTON's mass transit legislation.

Let's look at just one example. Under the Urban Mass Transit Act, the Federal Government provides operating assistance to mass transit systems. President Bush has proposed to eliminate this assistance in his amendments to the UMTA statute. The senior Senator from New York is rightly concerned about the impact of this proposal on his cities and transit workers. To resolve this dilemma, the committee bill will now allow highway trust fund money to pay for operating assistance. And the fund will come, not from the mass transit account of the trust fund, but from the highway account.

The leadership on both sides of the Banking Committee have introduced legislation to reauthorize the Mass Transit Program. Included in their proposals is the continuation of Federal funding for operating assistance for transit systems. I would submit, Mr. President, that this is the way to legislate. Keep transit problems in the transit legislation and don't undertake legislative robbery of the highway fund.

Mr. President, the senior Senator from Virginia, a member of the Environment Committee, has introduced an alternative to S. 1204. Senator WARNER's legislation, S. 1124, is a significant improvement over the committee product and should be adopted in lieu of S. 1204.

I expect the Senate will have an extensive and extended debate about the merits of these competing initiatives. This Senator supports the Warner alternative. I regret that I must oppose the committee product but it is too radical for Kentucky and would severely jeopardize the economy of the Commonwealth, our ability to improve our highway system, and the safety of the traveling public. We have taxation with representation in Kentucky and S. 1204 does not represent what we think our gas tax money should be allocated or spent for. Therefore, unless changes are made, I would urge the Senate to reject S. 1204.

Mr. MCCONNELL. Mr. President, today I rise to support reauthorization of the Surface Transportation Act. While I am in support of authorizing a new multiyear highway bill, I am deeply concerned that the Senate is attempting to pass legislation that is inherently unfair to a number of States. For this reason, I have cosponsored Senator WARNER's FAST bill, S. 1121, and commend him for his efforts to see that donor States receive a fair shake in this highway bill.

As one of 13 Republican Senators in 1987 who voted to override President Reagan's veto of the last highway bill, I am well aware of the importance this legislation holds for my State. However, at this time, I am reluctant to support a bill that does not give Kentucky a fair allocation of Federal highway dollars.

Due to Kentucky's status as a donor State, it has lost over $218 million during a 5-year period in which it contributed more money to the trust fund than it received. Senator WARNER's FAST bill, S. 1121, will provide a more equitable distribution of money to donor States similar to Kentucky. Under this proposal, it is estimated that Kentucky, over the life of S. 1121, will receive an average of 96 cents back on each dollar contributed to the highway trust fund.

Mr. President, while I have serious reservations about Senator MOYNIHAN's committee bill, it is imperative that Congress complete its work on a multiyear highway bill before the end of the fiscal year. This year's legislation represents the first major reauthorization of transportation programs since 1956 and will establish overall policy for the next 20 years. With the need to upgrade and maintain our country's aging roads and bridges, as well as the need to establish a transportation policy into the next decade, a new highway bill puts us at an important crossroads in our transportation future.

As we consider this highway bill, there are several issues which need to be addressed. First of all, we must recognize that our aging and congested transportation infrastructure is negatively impacting the economic well being of the Nation. The U.S. Department of Transportation estimates that if our highways are allowed to deteriorate, by 1995 the U.S. economy could potentially miss out on increases of 3.2 percent in GNP, 5.9 percent in disposable income, 2.2 percent in employment and 2.7 percent in manufacturing productivity. As we strive as a country to be more competitive in today's global economy, the Nation cannot afford to let our transportation infrastructure deteriorate to such a level which places us at a distinct disadvantage with our foreign competitors.

Second, we need to be prepared to adequately invest in transportation research. While steps need to be taken to ensure that our road and bridge system is maintained and expanded to meet user demand, it is crucial that money

be provided to research alternate forms of transportation. It is time to research and develop projects that will enhance transportation in both rural and urban areas. In addition, all efforts to further safety programs must be pursued as we continue to make further advances in highway design, safety equipment, and signage.

Finally, it is time that States are given the proper flexibility to meet their own individual transportation needs without being subject to rigid program fund distribution formulas. I have always believed States are in a better position to make decisions concerning their funding priorities for roads, bridges, and mass transit. Greater flexibility in the use of transportation funds will permit investment in the most cost effective solutions to a State's mobility needs.

In conclusion, it is my hope that the Senate can eventually craft a fair highway bill which provides equitable apportionments to both donee and donor States. We have the opportunity to shape transportation policy for the next several years. It is imperative the Senate agree to a highway bill which reflects both future and present transportation needs without sacrificing the present to pay for the future.

I urge my colleagues to pass a bill which accurately reflects the transportation needs of the entire country.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, I have discussed the status of the pending legislation with the distinguished Republican leader, with the managers of the bill, the distinguished Senators from New York and Idaho.

I was present during the statement of the Senator from Illinois expressing his interest in proceeding with his amendment.

Mr. President, I am advised there are approximately a dozen or so amendments with respect to which Senators have expressed an intention to offer them to the bill. It is anticipated by managers and the staff that not all of those will require rollcall votes, and some may not be offered.

We find ourselves in a familiar situation in that we have legislation pending; a number of Senators expressing an intention to offer an amendment and, with the notable and laudable exception of the Senator from Illinois, not being present to offer their amendments and being unwilling at this time to proceed to offer their amendments.

Accordingly, following the consultation which I earlier described, I have concluded the best way to proceed with respect to this bill will be not to have any further rollcall votes this evening for the simple reason we cannot get Senators to offer amendments that would require rollcall votes with the exception of the one amendment to which I referred.

We will seek consent at 10 o'clock tomorrow morning that the Senator from Illinois be recognized to offer his amendment and that the Senate be in a position to proceed to that at 10 in the morning or indeed, in the alternative, to lay the amendment down this evening and be ready to go to it at 10; then to proceed to attempt to dispose of the bill during the day tomorrow.

If we are unable to do so, we will remain in session tomorrow evening for as long as it takes, even if that means late in the evening. So that Senators may be prepared to adjust their schedules, by coincidence, as I was advised last evening by the Senator from Idaho, there is a large Republican function tomorrow evening, with the President scheduled to appear.

It has been our practice and custom over many years to accommodate both parties for such functions which, of course, are scheduled many months in advance at a time when no one can know for sure what the floor situation will be.

I have advised the Republican leader that it is my intention to create a window of 2 hours tomorrow evening, at a time of his choosing, to accommodate that dinner; but then to return following that and to remain in session for as long as it takes. We simply cannot continue to have just a few hours on the bills and stretch out their consideration by the Senate over an indefinite period.

I have attempted diligently to accommodate the schedules and interests of all Senators, recognizing, as I do, how heavy the demands are upon Senators and how burdensome their schedules are. But ultimately, of course, as we all recognize, when those efforts and accommodations conflict with our public responsibility, they must yield.

I have also advised the distinguished Republican leader, and will repeat, that as soon as we complete disposition of this bill, it is my intention to proceed to the comprehensive crime legislation, which I hope will be this week, and that we can start on that important subject.

So, Mr. President, I want to say to my colleagues who have expressed an intention to offer an amendment but have been unwilling to come here to offer it this evening, they are only ensuring the inconvenience of their colleagues to a much greater extent tomorrow, possibly late tomorrow evening.

For all of those offices where the Senator is not present and listening, I ask that his or her staff advise them of this statement so we will not tomorrow morning be deluged with requests to accommodate Senators' schedules tomorrow night. With the exception of the 2 hours to accommodate the Republican dinner, as I earlier stated, there will be no accommodations. No matter how long it takes, we are just going to stay and try to get this job done. That is our public responsibility, and we must meet that responsibility.

I am pleased to yield to the Republican leader.

Mr. DOLE. Mr. President, I do not disagree with the majority leader. It seems to me if there is nobody here to offer amendments—I guess the Senator from Illinois is prepared to offer an amendment, but we cannot proceed any further, unless somebody on this side is prepared to offer an amendment.

I guess the manager on this side would indicate that nobody on this side is prepared to offer an amendment. I would like to complete action before 7 p.m. tomorrow evening. I hope it is a large Republican function, as the majority leader indicated. In any event, I do not know of any other course to follow.

Perhaps, by morning, we can even narrow down further the list of amendments and get some agreement in the morning that these amendments and other amendments will be in order. That might be helpful. Once that were done, we could probably get time agreements.

The Senator from Iowa is prepared to give us a time agreement, I think.

Mr. DIXON. Mr. President, may I say to my friend——

Mr. MITCHELL. Mr. President, do I have the floor?

The PRESIDING OFFICER. Yes.

Mr. DIXON. If the Senator will yield, I thank the Republican leader for his accommodation. I would like to set the trend for tomorrow. I hope, after the number of years I have served here, my reputation is well known for accommodating my colleagues at every opportunity. I would like to accommodate my colleagues again on this question.

This is not an argument between my friend, the Senator from Iowa, and this Senator. It is an argument between our two States about a matter of numbering a highway, regarding which I want the Secretary of Transportation and a committee he determines to settle an argument between two States.

I can do this argument in 20 minutes tomorrow, evenly divided, or 30 minutes evenly divided, or whatever accommodates the Senate. The amendment is so simple. If I read it, I would be willing to let everybody vote. It is on one page, may I say.

I do not want to take up the time of the Senate. It is a matter that two States cannot resolve. The Department of Transportation has talked about it for months, and it ended up in my hands. It is like a lot of things that happen in your public life. Maybe you did not ask for it, but you ended up getting it. I would like to resolve it in as short a time as possible.

Mr. MITCHELL. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, while the two leaders are on the floor,

if I could say, I think the essential fact is that there is, at most, one substantive amendment left; not that the issue is not important as between Iowa and Illinois, but it is not part of a national transportation policy.

There is one substantive amendment left, and whether it will be offered, and what will happen to it, depends entirely on reaching agreements on distribution of funds, which we are trying to do on the floor. Once that is done, you have a bill. I mean, 12 minutes, and that is all.

Mr. MITCHELL. Mr. President, I appreciate the Senator's optimistic assessment, and we hope, of course, that it does prove to be correct.

Mr. MOYNIHAN. This could be a long one.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

TRIBUTE TO MAYOR PATRICIA KURAN

Mr. LAUTENBERG. Mr. President, I rise today to join the citizens of Fanwood, NJ, in paying tribute to Mayor Patricia Kuran, a distinguished public servant. On June 23, she will be honored for her many years of service to her community and to the State of New Jersey.

Mayor Kuran was born in Union Township and moved to Fanwood in 1959. In 1978, Mayor Kuran was elected to the borough council, beginning her career in public service. In 1983 she became the first woman, and the first member of the Democratic Party, to be elected mayor of her borough.

During her 8 years as mayor, Kuran distinguished herself by encouraging environmental responsibility through such initiatives as Fanwood's community wide cleanup and establishing the town's recycling center. Mayor Kuran also resolved most of the borough's severe flooding problems by acquiring three acres in 1984 which became part of the Fanwood Nature Center.

Earlier this year, the mayor announced that a back injury will prevent her from seeking a third term as mayor. A tireless servant to the borough of Fanwood, Patricia Kuran will be missed. I am honored to join with the people of Fanwood in extending my heartiest congratulations as she is honored and extend to her my warmest wishes for good health and happiness in the future.

A TRIBUTE TO LEE ATWATER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a beloved son of South Carolina and a great American, my good friend Lee Atwater, who passed away on March 29, 1991. Lee's passing leaves an unfillable void in the political landscape of this Nation and in the hearts of his many friends and colleagues.

Lee Atwater was one of the finest men I have ever known. He was a man of great courage and character whose talent and intelligence were rivaled only by his boundless energy. He was one of the most unique and able individuals I have encountered in politics, and he left an impressive legacy.

Lee was gifted with keen intelligence and an outstanding grasp of political nuance. However, even more importantly, he put those gifts to work with an energy and persistence which few could match. He was a one-man army, fighting on the side of his candidate and his party, and his exuberant style and wit became the stuff of legend.

Lee believed passionately in the American way and was devoted to electing candidates who would cherish the ideals upon which this Nation was founded. He was an unapologetic conservative with the courage of his convictions, and he was a significant force in revitalizing the conservative movement in America.

Lee Atwater was as renowned for his unique personality as for his political acumen. His love of rhythm and blues music and his fondness for cult movies and pork rinds were as familiar to his friends and colleagues as his political philosophy. He had a great zest for life which was an inspiration to us all.

Lee was a complex man, and like so many outstanding people, his gifts were not limited to one field. In addition to his skill as a political operative, he was a talented musician and he took great pleasure in playing the guitar and singing with his friends. He also enjoyed athletics and was a devoted runner.

I first knew Lee Atwater when he came to my Senate office as an intern in 1972. Although a very young man, he already had unusual political instincts and the determination to make something of them. Not too many years later, he was serving as political director for my 1978 Senate race, and he went on to become one of the most successful political operatives in the Nation.

His success was aided by his almost uncanny instinct for the feelings of the American public, a sort of political sixth sense. Although he was a true southerner, his career attests to the fact that his perceptiveness was not limited to southern voters. Many of the candidates he worked with owe their political lives to this special talent.

Although Lee helped to elect two Presidents, it was not until his illness that he began his greatest campaign. In his valiant struggle for survival, he turned at last to the lord. With characteristic zeal, he committed himself completely to becoming a witness for Jesus. Even as he sought a cure for his illness, he helped to bring the good news of the gospel to the millions who read of his new-found faith.

Mr. President, Lee Atwater was an outstanding man in every way. He was a fine husband and father. He was a great patriot, an astute politician and a loyal and devoted friend. Above all, he was an exceptional human being, and his valiance in the face of death was an inspiration to all who knew him.

I extend my deepest condolences to his lovely wife, Sally, and his three beautiful daughters, Sara Lee, Ashley Page, and Sally Theodosia, his devoted parents, Harvey D. and Alma Page Atwater, and the rest of his fine family.

Mr. President, I ask unanimous consent that excerpts from the excellent remarks of several prominent leaders and friends of Lee Atwater's be inserted in the RECORD immediately following my remarks, along with an article from the Charleston News and Courier and editorials from the State newspaper, the Charleston News and Courier and the Aiken Standard.

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

EXCERPT FROM REMARKS BY VICE PRESIDENT DAN QUAYLE AT THE FUNERAL SERVICE FOR LEE ATWATER, COLUMBIA, SC, APRIL 1, 1991

Lee wasn't a political mercenary, simply serving the highest bidder. Politics wasn't his business; it was Lee Atwater's calling in life.

EXCERPTS FROM REMARKS BY SECRETARY OF STATE JAMES BAKER AT THE MEMORIAL SERVICE FOR LEE ATWATER, APRIL 4, 1991

Like me, I'd be willing to bet that a lot of Lee's friends and admirers—not to mention his detractors—are finding it hard to imagine a self-professed bad boy like Lee up there with the angels. But that's exactly where Lee is, and the angels are just going to have to adjust.

During his year-long battle with cancer, I used to visit him on my way home in the evening and many times we'd read passages from the Bible. Lee particularly liked those about the peace that comes with faith. Above all, there was the quote from Isaiah (40:31): "They that wait upon the Lord * * * shall mount up with wings as eagles, and shall run and not be weary."

To the end, Lee fought his illness bravely, with the same aggressiveness, discipline, and energy that he brought to everything, whether it was running for the distance or running political campaigns.

EXCERPTS FROM REMARKS BY HARRY DENT AT LEE ATWATER'S FUNERAL, COLUMBIA, SC, APRIL 1, 1991

I have known of no one who has given a better message to the world on repentance and the golden rule than Lee Atwater in the last months of his life.

As Lee has taught us, there is that very simple requirement: Examine your life—hon-

est to God—and if you are not in the faith, repent and submit to the lordship of Jesus Christ, get with the golden rule and begin to love even your enemies as much as you love yourself.

I can hear Lee right now: That's right, Harry, convert your enemies by loving 'em to death! That's a great strategy! Jesus' politics really does make sense, and most of all, it works too!

EXCERPTS FROM REMARKS BY DOUG COE AT THE MEMORIAL SERVICE FOR LEE ATWATER, APRIL 4, 1991 AT THE WASHINGTON CATHEDRAL

In 1959 when I first came to Washington, an elderly gentleman who I respected very much told me that if you really like someone you sometimes loan them money, but if you really love them you will be willing to give them your friends.

In this spirit, I will forever be in debt to a few of the friends here this morning who gave me the opportunity of knowing their friend, Lee Atwater. The experience of this last year with him has left an indelible impression on my mind and in my life.

He was always amazed that so many of you would come to see him and tell him you were praying for him. It struck him strongly that this happened also with some of his political enemies. He saw that a spiritual bond was stronger than anything else, even overcoming political division.

[From the Charleston News & Courier, Mar. 29, 1991]

ATWATER YIELDS IN LAST BATTLE: FORMER GOP DYNAMO DIES OF CANCER AT 40

(By Steve Piacente)

WASHINGTON.—Lee Atwater, who gained a tough reputation with his feisty leadership of the Republican Party, died early today after more than a yearlong fight against a malignant brain tumor.

The 40-year-old South Carolinian had stabilized after a sharp downturn recently, but he finally yielded to a condition some doctors expected to take his life months ago.

"Barbara and I lost a great friend," said President Bush, whose 1988 campaign was managed by Atwater. "I valued Lee's counsel and abilities. The Republican Party will miss his energy, vision and leadership. Barbara and I give our deepest condolences to Sally, the kids and Lee's parents. We share in their grief. Lee will always be in our memories."

Atwater and his family also were cited recently by Vice President Dan Quayle as "an example to us all. Their courage has taught both admirers and detractors a good deal about the human spirit," Quayle said. "We've seen once again he's a fighter—the same fighting spirit that always energized his campaigns. In my mind he'll always be a winner."

Atwater died at 6:24 a.m. in George Washington University Medical Center from complications stemming from his brain tumor, according to Republican National Committee Chief of Staff Mary Matalin. His funeral will be held in Columbia, S.C. A memorial service also will be held in Washington in the coming weeks.

RNC spokesman B.J. Cooper said Atwater was "at peace and comfortable," alert and conversant in recent weeks.

Atwater received a visit Thursday from former President Reagan, who was in Washington for an appearance at George Washington University, a White House aide said.

"The Atwater family thanks all of Lee's many friends, who for the past year especially, shared strong support, deep love and daily prayers," the RNC statement said.

Clayton Yeutter, who succeeded Atwater as RNC chairman in January, said Atwater's death "takes from us one of the nation's most outstanding political minds."

Not only had Atwater run a presidential campaign and become chairman of the Republican Party, but he also had attained his dream of performing with some of the greatest rhythm and blues musicians. An accomplished guitarist and blues singer, Atwater was featured with B.B. King, Isaac Hayes and Billy Preston on "Red, Hot and Blue," a rhythm and blues album issued last spring.

Harvey Leroy Atwater was born Feb. 27, 1951, in Atlanta, but grew up in Columbia. A poor student in high school, Atwater got his start in politics from U.S. Sen. Strom Thurmond, R-S.C., after his sophomore year at Newberry College.

Atwater eventually became chairman of the S.C. College Republicans, using the post to drum up youthful support for Thurmond around the state.

"He came to me as an intern when he was in college," Thurmond recalled in a recent interview. "He was here and I saw he had a very apt political mind."

After graduating in 1973, Atwater became executive director of the College Republicans' national office in Washington. It was in that position that he first met Bush, then chairman of the RNC.

Atwater set up a political consulting firm in Columbia in 1974, and subsequently managed 28 winning GOP campaigns in the South over a four-year period. Included were Thurmond's 1978 campaign, and Gov. Carroll A. Campbell Jr.'s first race for Congress.

The street-fighting reputation for which Atwater became nationally known was developed during that period, winning Atwater both passionate friends and bitter enemies. In 1980, critics accused him of foul play in a congressional race between Rep. Floyd Spence, R-S.C., and Democrat Tom Turnipseed.

Noting that Turnipseed had undergone psychiatric treatment and electroshock therapy, Atwater said he would not respond to someone who had once been "hooked up to jumper cables."

Atwater, during his long illness, wrote many letters of apology, including one to Turnipseed.

In the 1988 presidential contest, Atwater was denounced for tactics used to portray former Massachusetts Gov. Michael Dukakis being soft on crime. The now-infamous "Willie Horton" TV ad told of a black convicted felon who raped a white Maryland woman while on weekend furlough from a Massachusetts prison.

Critics said the ad was a blatant appeal to racial prejudice. Bush's campaign insisted the issue was crime, not race.

Atwater was unanimously elected chairman of the RNC soon after Bush became president in January 1989, but more trouble soon followed.

In March of that year, students at Howard University, a prestigious black college in Washington, vehemently protested Atwater's naming to the school's board of trustees.

Still bitter about Atwater's tactics in the Bush campaign, Howard students occupied campus buildings until the RNC chairman finally resigned from the board.

A second personally painful incident occurred that June. It centered on an "attack memo" designed to link House Speaker Thomas Foley, D-Wash., to a homosexual congressman. Mark Goodin, an Atwater protege and close friend, was forced to resign from the RNC in the wake of intense criticism from both Democrats and Republicans.

Atwater, however, came up shining, at least in his own party. Ron Brown, chairman of the Democratic Party, called Atwater's tactics a disgrace."

In December 1989, after several relatively quiet months, Atwater and the RNC rented a posh downtown nightclub and threw a glitzy Christmas party. All seemed to be going perfectly.

Three months later, on Monday, March 5, 1990, Atwater was speaking at a fund-raiser for Sen. Phil Gramm, R-Texas, when he suddenly collapsed. After doctors discovered what they then called a small, non-malignant brain tumor, Atwater quipped, "This proves to my legion of critics once and for all that I do have something in my brain."

Since that time, Atwater had undergone two major operations, the first of which had been designed to bombard the tumor with radiation. In a recent first-person account for Life magazine, Atwater said his illness taught him some things are more important than wealth, power and prestige.

"What power wouldn't I trade for a little more time with my family?" he wrote. "What price wouldn't I pay for an evening with friends?"

Atwater claimed his illness had changed his approach to politics.

He described in the Life article his changed relationship with Democratic Party chairman Brown.

"After the election, when I would run into Ron Brown . . . I would say hello and pass him off to one of my aides," he wrote. "I actually thought that talking to him would make me appear vulnerable.

"Since my illness, Ron has been enormously kind—he sent a baby present to (daughter) Sally T; he writes and calls regularly—and I have learned a lesson: Politics and human relationships are separate. I may disagree with Ron Brown's message but I can love him as a man."

[From the State, Mar. 30, 1991]

ATWATER WAS A WINNER

As a political tactician, Columbian Lee Atwater was something special. He was tough, resourceful and pragmatic. Largely for those reasons, he was a winner in local, state and national politics. George Bush's ascension to the White House attests, in considerable part, to his savvy.

In numerous campaigns here and around the nation and as chairman of the Republican National Committee, Mr. Atwater raised the hackles of political foes—they accused him of a "pit bull style of politics"—but he had their grudging respect and those who underestimated him did so at their own peril.

Friday, the 40-year-old Atwater lost a year-long battle with a brain tumor, a painful illness that sapped his strength and forced him to the sidelines, where he publicly apologized to political opponents for his tactics.

Lee Atwater was a rising star in the political firmament. Sadly, his bright, albeit controversial, presence there was all too brief.

[From the Charleston News & Courier, Mar. 31, 1991]

LEE ATWATER

When Lee Atwater was diagnosed as having a brain tumor, he approached his cancer much as though it were a political opponent. He threw himself and his staff into research-

ing the enemy; there were the daily strategy sessions and there was the risk-taking with experimental medicine. He fought with the kind of game plan and tenacity that had made him the country's most-feared political tactician. Sadly, early Firday morning he lost his most important war. But he died a winner.

When Lee Atwater was faced with his own mortality a year ago, after collapsing in the middle of a speech, he was, in his own words at the top of the world. He'd gotten his start as an intern in the office of South Carolina's political legend, U.S. Sen. Strom Thurmond, and he wound up running the campaign that put George Bush in the White House. He also was the chairman of the National Republican Party, the first professional campaign consultant ever to occupy that seat. And he'd done it all before his self-imposed deadline. He wasn't even 40.

It didn't seem to bother him then that he was known as the "bad boy" of politics. Indeed, he seemed to relish his reputation as the past master of negative campaigning. There were, however,, a few charges that got under his skin. At the height of his career, he was quoted in The New York Times Magazine as saying he regretted that he didn't use a white person, rather than Willie Horton, a black man convicted of murder, to paint Massachusetts Gov. Michael Dukakis as soft on crime.

"I have always known I had to go the extra mile to avoid being tagged a racist by liberal Northerners," he told an interviewer. ". . . Race, politically, is a loser." He continued to deny the charges of racism in a compelling, first-person account of his campaign against cancer in the February issue of Life magazine, in which he expressed other regrets and apologized to those he had wronged.

Few who knew him well believe he would have changed much about his life. But the Life article says he would have changed the emphasis. In fact, Robert McAlister, a close friend and aide to Gov. Carroll A. Campbell, believes Lee Atwater will be remembered more for the last year of his life than for the 39 that went before it. He spent most of his years acquiring knowledge, according to Mr. McAlister, but it was in his last year that he gained wisdom.

Mr. McAlister, a lay minister, already has memorized sections of the Atwater article to use when he addresses religious gatherings. "The '80s," Lee Atwater wrote, "were about acquiring—acquiring wealth, power, prestige. I know. I acquired more wealth, power and prestige than most. But you can acquire all you want and still feel empty. What power wouldn't I trade for a little more time with my family? What price wouldn't I pay for an evening with friends? . . . I don't know who will lead us through the '90s, but they must be made to speak to this spiritual vacuum at the heart of American society, this tumor of the soul."

Before the cancer struck, Lee Atwater wondered what his real test in life would be. In the past year, he endured more pain, displayed more courage and wrote about his trials with more honesty than most. He passed his test with flying colors.

[From the Aiken Standard, Apr. 5, 1991]

LEE ATWATER LEFT A RECORD THAT WILL LONG BE STUDIED

Lee Atwater lived in Aiken briefly during his childhood, and a few residents still remember him and his family. Mr. Atwater was better known among local leaders of the Republican Party, an organization in which he rose to the very top.

His climb through the barbs and tears of politics was an amazing success story. His detractors claimed his was a mediocre intellect and he an unprincipled politician.

But before he was 40, he had been credited with the electoral successes of two presidents, and he was on intimate terms with the leaders of government.

A brain tumor brought him down, and led him to profess born-again Christianity. In his last year—adherring to the principles he professed—he sought to correct any wrongs he had done in his political career.

We are not so sure apology was necessary. Political campaigns in which the principals pull their punches are rare indeed; it happened that Mr. Atwater knew how to use his punches effectively.

His untimely death—with his life only half lived—left a question in many minds. What might the "born-again" Atwater have accomplished had he been restored to health.

His funeral in Columbia's Trinity Cathedral drew many of the nation's great to pay respects to his memory. Among the mourners were 11 cabinet members and the vice president of the United States. Gov. Carroll Campbell and U.S. Sen. Strom Thurmond delivered eulogies, as did the vice president.

Even at the peak of his career, Lee Atwater, when he discarded the mantle of political operative, was a warm human being, a family man, a lover of music and of his fellow man.

Not many Lee Atwaters—or persons of his caliber—will pass this way in our lifetime. He left a record of accomplishment that will be studied by political scientists for many years to come, and an example of personal redemption that we will leave for theologians to dwell on.

COMMENDING AMERICAN AIRLINES ON AIRCRAFT SAFETY

Mr. NICKLES. Mr. President, Congress spends a substantial amount of time pointing out what is wrong with corporate America and developing ways to remedy the deficiencies. Unfortunately, Congress too often focuses on fixing what squeaks and overlooks the extremely positive measures undertaken by individual members of the business community.

I believe it is time to give credit where credit is due. It is therefore my great pleasure to come before this body today to applaud American Airlines. This company, which I am proud to say has a strong presence in my State, fully understands that the best way to run an airline is to devote every ounce of effort to ensuring consumer safety and customer satisfaction.

This overwhelming commitment to the traveling public has always been part of American's public service. Recently, American's efforts were recognized by the Federal Aviation Administration. In late March of this year, 24 FAA aviation safety inspectors and aircraft certification personnel completed an exhaustive examination of American's maintenance and operation programs. In a followup letter to Robert Crandall, president and chief operating officer of American Airlines, FAA Administrator James Busey commended the company for its commitment to safety. Admiral Busey was particularly pleased with the fact that American has its own extensive internal evaluation system in place to ensure that its maintenance and operations programs are of the highest caliber.

While I will not read the entire letter into the RECORD, I find his closing particular appropriate, he states:

We feel an obligation not only to oversee and evaluate, but to compliment organizations which measure up well to world class safety standards. Yours has done that, and we appreciate your effort.

I am honored to join Admiral Busey in giving American Airlines, and their more than 8,500 employees in Tulsa, the recognition they so richly deserve.

I ask to insert the letter from Mr. Busey, the Administrator of the FAA.

The letter follows:

FEDERAL AVIATION ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
May 21, 1991.

Mr. ROBERT CRANDALL,
President and Chief Executive Officer, American Airlines, Inc., DFW International Airport, Dallas, TX

DEAR BOB: On March 21 our Flight Standards Service completed a National Aviation Safety Inspection of American Airlines. A team of 24 Federal Aviation Administration aviation safety inspectors and aircraft certification personnel conducted an indepth review of American's maintenance and operations programs. While the inspection activity focused on specific areas, key programs were reviewed, including American's procedures for weight and balance control and aging aircraft maintenance.

During our inspection, the team favorably noted that American has implemented an internal evaluation program. The inspection revealed very few safety deficiencies, a fact we attribute in part to the success of your internal evaluation program.

We feel an obligation not only to oversee and evaluate, but to compliment organizations which measure up well to world class safety standards. Yours has done that, and we appreciate your effort.

Sincerely,

JAMES BUSEY,
Administrator.

COUNCIL ON COMPETITIVENESS

Mr. KASTEN. Mr. President, in the early 1980's, then-Vice President Bush spearheaded the Reagan administration's successful effort to reduce the regulatory and redtape burden on the productive sector, helping spark the economic recovery. Today, Vice President DAN QUAYLE is building on this effort through his effective leadership on the President's Council on Competitiveness.

The Vice President's Council has assumed the enormous task of reining in Washington's regulatory machine. This effort is needed now more than ever; regulations cost the economy at least $185 billion annually. The American public spent more than 5.3 billion hours filling out paperwork last year, enough to keep 2 million people doing nothing

but cutting through redtape year round.

This redtape burden hits the small business owner the hardest of all. Because I was a small businessman before entering public life, I have firsthand experience with the stifling burden of regulations and redtape. As ranking member of the Senate Small Business Committee, I am particularly concerned about the impact on small businesses. It's not right that you should be forced to hire extra workers for the sole purpose of filling out Government forms—as opposed to producing worthwhile, marketable products.

In a column entitled "Quayle's Sharper Edge," Warren Brookes writes that the Vice President has "single-handedly revived" the Office of Information and Regulatory Affairs, the office within OMB which monitors and reviews regulatory and paperwork demands that Federal agencies impose on the public.

Since 1981, OIRA has reduced the time the public spent filling out Government paperwork by almost 600 million hours each year. Using a conservative estimate of $10 per hour, this reduction has saved our economy $6 billion annually.

The President's power through OIRA to check the regulatory excesses of the Federal bureaucracy is essential to continued private sector growth, innovation, and wealth creation. That is why I have joined Senator SAM NUNN in introducing the Paperwork Reduction Act of 1991 to strengthen OIRA's power to restrain the bureaucracy's natural propensity to impose excessive regulatory and redtape burdens on our innovators and entrepreneurs.

A whole new framework of regulatory burdens imposed by the Clean Air and Americans With Disabilities Acts—both of which I support—are a threat to continued economic growth if Washington's bureaucrats are left unchecked. The Vice President's Council on Competitiveness is doing a tremendous job in making these new regulations manageable for small business. However, enactment of our paperwork reduction legislation would ensure that all Federal regulations achieve their goals in the least burdensome and most economical way possible.

I ask unanimous consent that the Brookes article appear immediately following my remarks:

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

[From the Washington Times]

QUAYLE'S SHARPER EDGE—TENDING THE HOME TURF

When President Bush's heart fluttered the media flew into an orgy of Quayle-quivering over the possible transition of power to someone pundits have tried to portray as a national joke.

But just a few days before this event, Rep Henry Waxman, California Democrat and ultra-liberal chairman of the House subcommittee on Health and Environment wasn't laughing at the vice president. He was fuming because Mr. Quayle, as chairman of the Council on Competitiveness has been stiffing Mr. Waxman's buddies, the regulatory zealots at the Environmental Protection Agency.

So much so, in fact, Mr. Waxman, the Alar congressman from Hollywood conned Ned Potter and Peter Jennings of ABC into a floridly fatuous assault on the council in which Mr. Waxman said it was "a secret kind of government that the vice president is in charge of that's going to rewrite the law."

There is of course no "secret" to the council's deliberations, nor is the process seditious in any way. Congress writes 700 pages of openended law and gives EPA a blank check to write 10,000 or so pages of regulation to implement it. Unless someone oversees this process, the crazies, like Mr. Waxman will destroy what's left of the U.S. domestic economy.

As vice president, Mr. Quayle has single-handedly revived the Office of Information and Regulatory Affairs within the Office of Management and Budget after Dick Darman had neutered it. OIRA reviews every regulation written by every federal agency.

When those regulations (as they so often do) produce massive costs but little or no benefits, OIRA ships them back to the agency for redoing. Since most of what EPA sends out involves cost over benefit ratios of from 50 to as much as 10,000 to 1, OIRA has become a serious thorn in its side.

For example, last December, the Quayle Council stopped a foolish EPA regulation that would have required every municipal waste combustor to recycle 25 percent of all incoming wastes. Not only would that impose massive new costs on these facilities, it would deprive them of basic fuel and thus power that they are committed to produce, all for no measurable benefits.

While ABC characterized this decision as "killing regulations to order recycling of trash that would be toxic if burned," the EPA's own studies show the provision would have added zero air pollution benefits for a cost of $100 million a year! No wonder the National Governors' Association (run by Democrats) opposed this stupid rule, and helped make EPA back down.

More recently, the council has been attempting to put some sanity into such things as risks analysis, corporate average fuel economy rules, and Clean Air permitting procedures.

That's why Mr. Waxman is screaming. One of the most econmically dangerous and irresponsible provisions of the Clean Air Act was to put EPA in charge of direct permitting of some 200,000 businesses on some 197 chemicals—a recipe for economic gridlock. The council is trying to make this nightmare for small business at least manageable if not bearable. For its efforts, Mr. Jennings' chosen congressional extremist, Rep. Gerry Sikorski, Minnesota Democrat, accused Mr. Quayle's Council of "Environmental treason."

This merely illustrates one of Washington's best-kept secrets: Dan Quayle has unobtrusively become one of the most effective pleaders for policy coherence in an otherwise incoherent administration. As New York Times former editor and now columnist Abe Rosenthal put it, "I think Mr. Quayle is far more able and sophisticated than he is drawn in the press and on TV. So do politicians and legislators I respect of both parties."

Last Tuesday, Mr. Quayle's Council on Competitiveness, which includes Treasury Secretary Nicholas Brady, Attorney General Richard Thornburgh, Commerce Secretary Robert Mosbacher, Chief of Staff John Sununu, Mr. Darman, and Economic Adviser Michael Boskin, issued a Reaganesque manifesto titled: "Taking on the Problem of Excessive Regulation."

In it, each of the agencies "renewed their commitment" to such things as ensuring "that rules clearly maximize benefits and minimize costs, based on sound analysis," and require agencies "to supply OMB with benefit and cost data about rules." The Council thumbed its nose at Mr. Waxman and formally enhanced OIRA's role "to strengthen the regulatory review process" in such things as Clean Air, Child Care and the Americans with Disabilities Act. It also announced that OIRA and the Council will formally review the Wetlands Delineation manual to ensure a "balanced policy" that protects private property rights.

Perhaps the most important element in this new manifesto was "Protection of Constitutional Property Rights" in which the Council went on record in full support of executive orders and new legislation to require agencies to compensate property owners whenever these policies (like wetlands or endangered species) result in a value reduction and thus a "taking" of property. It even proposes that such legislation "provide agencies financial incentives to use caution before issuing regulations that 'take' private property rights."

This is a ringing reaffirmation of the ascendancy of private property rights against environmental "land use" planning, and it is a major triumph by Mr. Quayle's Council over the turf-hungry bureaucrats at both EPA and the Interior Department.

This may explain the real reason why liberals are so nervous about the eventual possibility of a Quayle administration. It might actualy revive the pro-market cause in government.

DEMOCRATIC HEALTH PLAN BAD FOR SMALL BUSINESS

Mr. KASTEN. Mr. President, the rising cost of health care is the top issue on the minds of small business owners in Wisconsin and across the country.

Of the 34 million Americans without health insurance, more than 18 million work in small businesses or are dependents of workers in small businesses. According to a 1990 survey conducted by the National Federation of Independent Businesses, two out of three small businesses would offer insurance if it was affordable. Further, 22 percent of the uninsured are self-employed workers.

The first step that Congress could take tomorrow would be to allow self-employed workers to deduct 100 percent of their current health care expenses instead of the 25-percent deduction allowed under current law. I, along with several other Senators, have introduced legislation last year and this year to level the playing field between small and big business. Hopefully, we can act soon to enact insurance market reforms and cost containment measures which would also enable small business owners to provide health insurance to their employees.

But what small business doesn't need right now is the solution offered by the Senate Democrats' plan. Their solution is to mandate that small business either offer health insurance they cannot now afford or pay a Federal tax. This is the surest way to drive the small business owners, the biggest job creator in our economy, out of business. In short, the Democrats' proposal is a job-destroying bill.

The June 11, Wall Street Journal, contained an excellent editorial outlining why the Mitchell-Kennedy bill is the "wrong prescription for the uninsured." I ask unanimous consent that this editorial by John Goodman, the president of the National Center for Policy Analysis, be inserted in the RECORD, as follows:

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

[From the Wall Street Journal, June 11, 1991]

WRONG PRESCRIPTION FOR THE UNINSURED

(By John C. Goodman)

To solve the problem of 34 million Americans without health insurance, Senate Democrats have unveiled a new health-care plan. Ever faithful to the big government, big bureaucracy point of view, George Mitchell (D., Maine), Edward Kennedy (D., Mass.), John Rockefeller (D., W.Va.) and Donald Riegle (D., Mich.) propose to take a manageable problem and turn it into a major disaster.

Under the bill's "pay or play" plan, employers would have a choice: pay a federal tax, tentatively set at about 7% of payroll, or provide health insurance to their workers containing core benefits defined in Washington. If employers decide to pay the tax, government will assume responsibility for providing health insurance and employees will pay premiums that vary based on income level.

For example, a $2,500 family health insurance premium for a worker earning $20,000 costs 13% of payroll, not 7%. In this case, the obvious choice for the employer is to pay the tax and turn the problem over to government. Indeed, considering that about 95% of all uninsured workers earn less than $30,000, in the vast majority of their cases employers will have strong incentives to pay the tax rather than to begin providing coverage themselves. (The cost of the core-benefit package will vary depending on the benefits included, and the age, occupation and geographical location of employees. The $2,500 example is a very conservative number; the current average cost per employee in the U.S. is $3,217.)

THE TEMPTATION

This is not necessarily good news for the uninsured. Assuming uninsured employees are already paid a fair wage, a 7% payroll tax means that their employers will have to cut wages by 7% or lay off workers. Since those earning the minimum wage can't by law take a wage cut, they stand the greatest risk of becoming unemployed.

Employers who already provide health insurance to their employees also will compare the 7% tax with the cost of a health-insurance policy containing federally mandated benefits. A great many of them will be tempted to pay the tax and drop existing coverage. Nor is this mere speculation. A Kennedy aide says the bill's sponsors expect this to happen.

Lee Iacocca will like this plan. For years he's wanted to dump Chrysler's health-care costs on government, and the Senate Democrats are offering him a chance. Instead of paying what I estimate to be close to $4,000 per employee for private insurance. Mr. Iacocca could pay a tax of less than $3,000, have government provide each Chrysler worker with health insurance, and make a handsome profit. (If they have any sense, Chrysler workers will resist this mightily.)

If employers decide to provide health insurance to their employees, they will be required under the bill to include mental-health benefits (the fastest-rising component of health-care costs) and preventive procedures, including mammograms, pap smears and well-child care (items for which costs double when the administrative costs of third-party insurers get factored in). The required out-of-pocket deductible is only $250. Employers could charge a higher deductible only if they provided additional benefits to those in the core package—not to cut costs.

Count on the benefits expanding and the costs rising once the special interests get their hands on the bill. In response to provider pressures, state governments have enacted more than 800 cost-increasing mandated benefits, requiring insurers to cover services ranging from acupuncture to in-vitro fertilization. All this means that individuals have to pay for coverage they do not want. Though the Senate Democrats' bill would override these state mandates—in an attempt to control costs—the lobbyists can be expected to move to Washington and continue their push for coverage of more and more services.

If employers exercise the option to pay the tax rather than provide health insurance, what happens to the workers? Rather than purchasing a private health insurance policy on their own, they will be required to join Medicaid. In fact, if you have any desire to toss away your private health insurance and join Medicaid, you'll love the Senate Democrats' new health-care plan.

Granted, under the Democrats' plan Medicaid would be reorganized. It would also have a new name—"AmeriCare." But Medicaid under any name is still Medicaid.

In most places, Medicaid pays doctors and hospitals 50 cents on the dollar—sometimes even less. As a result, doctors increasingly won't see Medicaid patients and access to hospital care is increasingly limited to charity hospitals.

Because Medicaid underpays, healthcare rationing is inevitable. And more severe rationing is right around the corner as the hospital marketplace becomes more competitive, cost-shifting to other patients becomes less feasible and government at all levels has less money to spend. So far, only Oregon publicly admits that rationing in its Medicaid program is routine. Medical providers know the same thing is happening in every state.

If readers get a sense of deja vu, it's probably because they have heard this before. The Senate Democrats have endorsed the very plan that Michael Dukakis created for Massachusetts. Voters may recall Mr. Dukakis's 1988 boast that everyone in Massachusetts had health insurance. Well, not quite. The Massachusetts Legislature wants to delay the private sector's entry into the program until 1994, and the current governor wants to kill the whole program.

One problem is that government is inherently incapable of administering an insurance program that prices risk accurately. Witness the deposit insurance debacle at the federal level and the auto liability insurance crises in California, New Jersey and Massachusetts. In Massachusetts, auto insurance has become so politicized that any possibility of rational premium prices has vanished and 65% of all premiums now go to the state risk pool.

The Senate Democrats have already signaled they have no interest in insurance prices based on real risks. The 7% payroll tax has no relationship to the actual cost of health for any particular employee. And they are proposing a quasi-cartel in the small-group health insurance market to guarantee that private insurance premiums won't reflect real risks either. This will speed the exodus of people into Medicaid (oops, AmeriCare), the risk pool of last resort.

A second problem both for Massachusetts and the Senate Democrats is small business, which employs most of the noninsured workers. Does it really make sense to heap new taxes on small business—the job-creating sector of the economy—in the middle of a recession? One suspects that even the senators would answer "no."

In fact, one suspects they're not really serious about the proposal at all. The plan proposes a two-year grace period for new small businesses and a five-year grace period for firms with fewer than 25 employees—the firms where almost half of all uninsured workers are employed. Like Mr. Dukakis, the Senate Democrats propose to talk now and act later—definitely after the next election.

A third problem is health-care costs—which are bound to rise as more people acquire health insurance. Initially Senate Democrats propose "voluntary" spending limits with targets for the total amount spent on physicians fees and hospital services throughout the country. But since the nation's 5,000 hospitals and 500,000 doctors could not possibly agree collectively on anything, the targets are bound to be missed, and "voluntary" will soon become "mandatory."

This is precisely the approach taken in countries with national health insurance, where governments set aribitary budgets for hospitals and area health authorities and force the providers to ration health care. The result is a lower quality of care and more—not less—inefficiency.

While 700,000 people wait for surgery in Britain, at any one time one of four hospital beds is empty. While 50,000 people wait for surgery in New Zealand, one out of five beds is empty. As the waiting lines grow in Canada, the politics of bureaucracy determines who gets the next brain scan. In all three countries, about one in every four hospital beds is filled with the chronically ill elderly, using the hospital as an expensive nursing home.

LISTEN TO BENTSEN

Bureaucratic health-care rationing is anything but fair. Although health care is theoretically free in England, 12% of the population now has private health insurance. In New Zealand's "free" health care system, one-third of the population has private insurance and one-fourth of all surgery is performed privately. In Canada, where private health care has been virtually outlawed, the U.S. border is the safety valve. For example, about 100 Canadians get heart surgery every year at the Cleveland Clinic.

Before taxing small business to pay for an expanded Medicaid program with health-care rationing required by limits on spending, the Senate Democrats should listen to their col-

league Lloyd Bentsen (D., Texas), author of refundable tax credits for the purchase of health insurance. Instead of pushing more people into a government rationing program, the Bentsen approach would empower low-income families and make them real participants in the health-insurance marketplace.

REGARDING THE NATIONAL VICTORY CELEBRATION

Mr. WARNER. Mr. President, more than 10 months ago, the world was shocked when Saddam Hussein sent Iraqi troops to invade Kuwait. Governments the world over expressed their outrage at this lawless act of cruel and gruesome aggression. As the United Nations moved to condemn Iraq's actions and began to arrange for the protection of Kuwait's threatened neighbors, one nation moved a step further. The President of the United States ordered American soldiers to the Persian Gulf to provide protection for Saudi Arabia and other potential victims of Saddam Hussein.

From the onset, I supported President Bush in these courageous efforts. To the President's great credit, he had in place a team of military and civilian leaders ready and willing to provide the leadership that would make Operations Desert Shield and Desert Storm so successful. Secretary of Defense, Dick Cheney, Joint Chiefs of Staff Chairman, Gen. Colin Powell, and field commander, Gen. H. Norman Schwarzkopf formed the triumvirate that orchestrated, with the military forces of some 28 countries, the defense of the Arabian peninsula and the ultimate liberation of the State of Kuwait. Meanwhile, Secretary of State, James Baker tirelessly traveled the globe to facilitate the diplomacy of such a massive international undertaking.

For the superb execution of their duties under the most trying circumstances, each of those men deserves the congratulations and gratitude of all Americans.

As we take this opportunity to cast out our plaudits to those who achieved victory in the gulf, praise cannot go only to those whose faces we saw on the evening news, but our unparalleled praise and gratitude must go to each and every one of the men and women serving in the United States Armed Forces.

Enough cannot be said of the devotion and professionalism of the American servicemember: those individuals whose love of country is so strong that they stoically abide the sands and seas of another land in the defense of liberty. Over 450,000 of them left the security of home and family for the broiling heat of the Arabian desert. Tens of thousands of others played integrally important roles from bases here at home and throughout the world.

And on January 16, with the support of the Congress and the United Nations, and in concert with the Allied Forces, the waiting came to an end: Operation Desert Shield became Operation Desert Storm, and the liberation of Kuwait had begun.

In Washington, and in every city and town, America watched the television reports that so vividly displayed the intensity of the conflict. We witnessed the deployment of the Patriot missiles and their successful midair interceptions of SCUD's. We watched the flaming tails of the Tomahawks as they launched from battleships. Daily we saw the pinpoint accuracy of the smart bombs deployed so skillfully by our brave pilots.

I had the great privilege of standing alongside the crew of the U.S.S. *Missouri* as they launched a Tomahawk toward an Iraqi target during one of the three visits I made to the Gulf region during the deployment of our troops. On each trip, I was deeply impressed by the commitment and expertise of the soldiers in the field.

Meanwhile, at home, flags were flown; yellow ribbons, symbolizing our love for those serving in the Gulf and our anxious await for their return, were displayed everywhere from car antennae to the White House porch.

And now our troops are coming home. There is cause for celebration.

On June 8, a great celebration took place here in Washington. Sponsored by the Desert Storm Homecoming Foundation, the celebration gave tribute to all the men and women of the Armed Forces.

I am particularly proud that during the celebration Miss Ashton Nolley, a young lady from Virginia, performed an original song, "America, Can You Hear Me?" Her song is a moving testimonial to the bravery and commitment of the American servicemenber. It verbalizes some of the feelings of loneliness and uncertainty that many servicemembers experience. I will respectfully request that the text of the song be entered into the permanent RECORD of the proceedings of the Senate as a reminder not only of harrowing feats of men and women in American uniform, but of the support and love of those of us they so nobly serve.

Amid the excitement of the moment, let us not forget to pay tribute to those men and women who remain in the Persian Gulf. We should also pause to remember those who, fallen in the line of duty, cannot be here to share the glory of their returning comrades-in-arms. The Bible says, "Greater love hath no man than this, that a man lay down his life for his friends." We give thanks for those who have gone before us in the service of their country, and take solace in the knowledge that they go on to an even greater glory than is known on Earth.

I ask that the lyrics of "America, Can You Hear me?" be printed in the RECORD.

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

"AMERICA, CAN YOU HEAR ME?"

America can you hear me?
I'm running with a rifle in my hand.
America can you hear me?
My best friend just fell to the sand.

History in the making
Blood on our hands,
Cries for freedom
Across the lands.

Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all mankind.

America can you hear me?
Does anybody even know my name?
America can you hear me?
Oh God, don't let me die in vain!

Freedon is the answer
For the world someday,
In the light of death, Lord
Let us pray.

Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all mankind.

Too soon we forget the scars of liberty,
The lives that were lost to make this country free.

Let us sing
Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all.

America can you hear me?
I'm running with a rifle in my hand.
America can you hear me?
Please! help me try and understand.

ELENA BONNER'S ADDRESS TO THE SAKHAROV MEMORIAL CONGRESS

Mr. KENNEDY. Mr. President, I would like to take this opportunity to recognize the achievement of Elena Bonner, widow of the renowned Soviet scientist and human rights leader, Andrei Sakharov. Through her tireless efforts, the First International Sakharov Memorial Congress, entitled "Peace, Progress and Human Rights," was convened in Moscow on May 21–25, 1991.

This congress took place during what would have been Andrei Sakharov's 70th birthday and brought together an extraordinary range of individuals to advance the causes to which Sakharov dedicated his life. As Ms. Bonner eloquently stated, "Sakharov defended the individual, the human personality, the right to personal convictions, the right to choose one's own way of life, the right to freedom, and the simple right to happiness."

Reflecting Sakharov's dual commitment to human freedom and scientific progress, the memorial congress fo-

cused on both the future of Soviet and Eastern European transitions from totalitarianism and the aftermath of the nuclear disaster at Chernobyl. In addressing these critical issues, the participants of the congress carried on the critical work of Andrei Sakharov.

Elena Bonner deserves special praise for making this important congress possible. It brought great honor not only to the memory of Andrei Sakharov on the anniversary of his birth, but also to his ideals that live on in the hearts of his fellow citizens.

I believe Ms. Bonner's speech at the opening ceremony of the First International Sakharov Memorial Congress will be of interest to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

ADDRESS OF ELENA BONNER, OPENING CEREMONY OF FIRST INTERNATIONAL ANDREI SAKHAROV MEMORIAL CONGRESS, MOSCOW, MAY 21, 1991

Good evening!

Today would have been Andrey Dmitrievich's seventieth birthday. The anniversary has come at a hard time for the country, of which Sakharov was a citizen according to his birth right and his bitter right to lie in its soil. But he was also a citizen of the Earth because of his love of it, and his inflexible struggle for preserving peace.

In our supermilitarized state he was the only scientist who struggled for peace all over the planet with complete professionalism, absolute courage, absolute honesty and total independence: free from the interests of certain parties, groups, departments, or one governmental system.

With equal staunchness, Sakharov defended the individual, the human personality, the right to personal convictions, the right to choose one's own way of life, the right to freedom, and the simple right to happiness.

He defended the Chinese in Indonesia and the students from the Celestial Consent square sentenced to death, the Palestinians in the Tel-Zaatar camp, Afghan mujahedin, Iraqi Kurds, Azerbaijanis in Iran. He defended his compatriots: Russians, Germans, Jews, Buryats, Georgians, Uzbeks, Tatars, Azerbaidjans, Ukranians, Lithuanians, Armenians. And he tirelessly defended the right of every people to self-determination. And he also saw the prime obligation of the state as the defence of the weak.

But he was not a man of nonresistance or an absolute pacifist. A defender of the law as one of the highest achievements of civilization and a convinced evolutionist, he did not reject the possibility of revolutionary social development. From a truly democratic position he defended the workers right, to strike:—whether economic or political. He considered that industrial action could prevent a revolutionary explosion, but more importantly—could create conditions in which the old political structures would resign peacefully without violence.

Being especially concerned about national problems he used to say that in a dead-end situation, consensus is a meaningless word, and any decision on the inviolability of borders becomes a way of protecting the State system. In the conditions of our country this means the defence of Stalinism. Sakharov repeatedly stated that the right of a people to self-determination is more important than all other rights for any national community. And he never regarded the victim and the hangman as equals! Such a wide spread and immoral excuse for any inaction was absolutely unacceptable to him.

We quickly managed to put behind us the shaken ourselves very soon soon and hurried to events in Alma-Ata, Sumgait, Kirovobad, Tbilisi, Baku, Dushanbe and the Baltic states. We are also in a hurry to forget Ossetia. To refresh our memory and awaken our humanity, blood is being shed in Karabakh today.

And before we speak fine words about Sakharov I ask you to rise for a minute of silence in memory of all who have perished in this country over recent years and in the last month of May, when our brave Soviet, our Azerbaijan OMON fighters generously shed people's blood on the soil of the Caucasus. Thank you! Please be seated.

I declare open the First Sakharov International Congress "Peace, Progress Human Rights" officially open. It was planned and is to be conducted absolutely independent of all state and government organizations of the USSR and other countries. Main funds were received by the Congress from independent media: "Argumenty i Fakty", "Moskovskiye Novosty", and "Ogonyok". Main hard currency funding was provided by "Alitalia" airline company and the Federation of American Trade Unions. The list of all sponsors of the Congress will be published.

As a result of 18 month in tense on the part of work of four people in the USSR, one person in Italy, and two in the USA, we are able to meet each other in this hall.

What is the idea of the Congress, apart from the fond memories of the late? Together we are going to repeat what Sakharov was doing alone. We will talk about the most critical problems of the present professionally and honestly. But to talk is only a part of the task. We want to be heard by those on whom the solution of the problems put forward depends, and not afterwards, as Sakharov was, not in ten or twenty years time, when everything will be too late, but today.

One Congress cannot cover all the malaises of the contemporary world. We have chosen two subjects for our work. They are: "Chernobyl (The past, present, and future)" and "The Soviet Union and East European countries on the way from totalitarianism to the rule of law". Far from removed one other at first glance, they are linked by Sakharov himself, as a scientist and a public leader.

Scientist Sakharov was not only the "father of the Soviet H-bomb" (a media cliche that should be laid to one side). Sakharov was the pioneer in the field of theoretical studies of peaceful application of thermo-nuclear energy.

Sakharov was undoubtedly in favour of the development of nuclear power engineering, believing that it would make possible the raising of living standards of people all over the world. Not to reduce them in rich countries, but to raise them in the poor ones.

In his article "Nuclear Power Engineering and Freedom in the West", he proves that it is necessary for democratic countries to become oil- and in general power-independent on the power exporting countries. The recent war in the Gulf once again proves that he was right. Having touched upon this subject, I would say that the UN and the members of the Security Council have no right to let Saddam Hussein's crimes against the environment, which threaten the whole planet, go unpunished.

According to Sakharov, the Chernobyl catastrophe was not only the consequence of technical errors, mistakes made by the personnel and the low quality of construction, but above all it is evidence of the defectiveness of the social system. He considered "Chernobyl" to be as the highest "achievement" of socialism.

The second topic, which had seemed precisely formulated, was becoming doubtful one and a half years ago later. Questions have arisen: "Are we on the way from totalitarianism to the rule of law? Aren't we simply walking on the spot? Aren't we going backwards?" The stages of this transformation are well-known:

The indirect election of the President, his initial and the subsequent additional powers, the simultaneous process decay of the Union going simultaneously, the seige of Lithuania as an answer to the legal and constitutional declaration of its independence, the governments "Principal Directions" instead of an economic program, the first draft Union treaty, which in fact rejected the sovereignty of republics, the second slightly improved draft, about which we know nothing, as it we simply do not know which one is under discussion today: it has not been published, the decree on the protection of property which turned into the protection of this was Communist Party of property, and led to the tragic events in the Baltics—the decree on joint patrols, this was a hush-hush privatization by the bureaucratic-nomenklatura, not for the sake of the people, but against it.

And the last event: the recent agreement signed by the leaders of the nine republics and the President. It is considered as a document opening up not the best, but some kind of a way forward and as a cease-fire in the battle which in the public conscience is formulated as "Gorbachev or Yeltsin". But in fact it is a far from finished struggle by the republics against the Center of the former Soviet Union for real independence. Creation of sovereign states in place of the totalitarian empire under the pressure of which our peoples existed for 73 years—it is undoubtedly a progressive process and the fact that it can lead to the appearance of regimes far-removed from democracy (as happened in Georgia) is the result of the activities of the Center. In this case it is the direct result of gas and spades in Tbilisi.

I return to the "Nine plus one" Agreement. Its assessement of the strike movement has an anti-worker character and the idea of the favorable status for those republics which are participants of the agreement seriously puts one on his guard. And the consequent bloody events in Karabakh directly show what kind of consequences await those republics which have not signed the Agreement. Again as in January, after Vilnius and Riga, the question comes up: "Who is next?" Moldova? the Baltics again? Georgia, where Ossetia has been already set alight?

Today Russia is waiting for the Presidential elections. We were waiting for the Referendum and the Congresses, waiting for laws which were to make our life at least slightly better. We were expecting the price increases for a long time. We got them, but 100-rouble banknotes were frozen in advance. We do now know what we are to expect after June 12.

They frighten us with talk of hunger and civil war. But there is a great deal of hunger over the greatest part of the country, and a war is already on, not the civil one, but between the old Stalinist system and newly ap-

pearing one. In its agony, the old regime defends its power, the leaders of the party defend their property which is separate from the people. The paradox is that through thus the party calls itself Communist. The result of property protection is the spilling of blood. Blood was shed in Baku and Tbilisi in defence of the Central Committee. The property of the party was being defended in the Baltics. Blood in the Karabakh is in answer to the independence declaration by Armenia and the nationalization of Party and Komsomol property.

Until the Party gives back everything to the people, to the last wooden (or, as it is now called, Pavlov) rouble—Stalinism will be triumphant.

And it will exist until we survive an epoch of true sovereignties. It is high time for us to say plainly: sovereign states can unite only in confederations. Our future (if we want a free one) is confederation, and all that is said about a new or old federation is just fiction.

Why are fascist states not so tolerant as totalitarian systems? They always have an element of sovereignty left: private property.

And the idea of democracy is the range of sovereignties: of individual, of the family and home, of enterprises, of any national community, of a people. And the sovereignty of a state!

We are told that the international (and especially European) trend is towards unification. Thus, is correct, but only after decades of freedom! The fight for sovereignty is not only going on in this country, but all over the Eastern Europe: in Slovakia, Croatia, Serbia. This is the repayment for the decades without freedom.

Such is the time and the country in which the coordinators and experts of the Congress are supposed to answer the questions put foward before them within the theme: "The USSR and countries of Eastern Europe on the way from totalitarianism to the rule of law". Did really nothing happen during the last six years? Probably the most important thing happened: a change in the public conscience. Just as you cannot stop a river with your hand, so nothing including the army, OMON, hunger and even war can stop the process of the creation of a new society, they can only make slower and bloody—what is really going on now. But they cannot throw the country back to total fear. It is clear to those who have the power in their hands. That is why it has become possible for us to meet each other in this hall on Andrey Dmitrievich's birthday.

Many of our guests took part in the social movement defending human rights and the world campaign "Sakharov Defence". We are sincerely grateful to them and their comrades in many countries for their support and defence of Sakharov in hard times. Due to their efforts, Sakharov was given freedom for the last three years of his life. Over these three years he taught many people in this country to differentiate some views from the truth and helped them to overcome fear, believe in themselves and in the human being, again.

Many of those present here were not acquainted with Sakharov personally, not all of them shared his views, very few of them were his friends. What unites us is the fact that we are his contemporaries. We are contemporaries of the man who became a legend during his life, but did not like myths about himself. We are contemporaries of the man whose fate drew the attention (kind or unkind) of many people throughout the world. The same attention exists now, but usually it is speculative. It makes me sorry that the speculations often come from people representing the democratic wing. Don't you call yourself Sakharov's friends if you only appeared after the telephone call by Mikhail Gorbachev to Gorkii. Don't make political capital so easily. I am ashamed for you before those who used to come to our home under the KGB observation, those who used to come to Gorkii secretly, and one who pawned his house in the USA in order to gain money for the campaign in defense of Sakharov.

People from different worlds are present here, representing different professions and social position, different parties and movements, different views. Many thanks to all those who have accepted our invitation and have come to this hall. I am grateful to the President of Portugal, Mario Soares. Under his sponsorship and with his participation the Fourth Sakharov hearings were held in Lisbon in 1983 and he was the first state leader who accepted my invitation at the very beginning of our activities for organization of the Congress. Thus, he let us hope that the event will be a success.

I thank the Chairman of the Czechoslovak National Assembly, Alexander Dubcek. 1968 was the start of countdown for those who are usually called dissidents. Seven people came to Red Square with the slogan "For Your and Our Freedom". And this was the beginning of the dissident glasnost in the USSR. All who took part in it saw their Czech and Slovak friends as an example of courage and staunchness. And I am happy to say here again in the presence of Pan Alexander "For Your and Our Freedom".

I thank the President of the USSR, Mikhail Gorbachev and the Chairman of Russian Republic Supreme Soviet, Boris Yeltsin. Their presence at this democratic meeting will undoubtedly support the success of our work, widening the circle of those who will become interested in and answer to the recommendations of the Congress, the working part of which is to begin tomorrow.

Exactly two years ago, a question put forward at the First Deputies' Congress was heard all over the country: "Who is Sakharov that he is allowed to speak?"

The Director of the Lebedev Physics Institute, Academician Leonid Keldysh and the Director of the Stanford Accelerator, Dr. Sidney Drell, Professor of the Cornell University Dr. Yury Orlov and the Chairman of Czechoslovak National Assembly, Alexander Dubcek, will take this floor after me. Each of them will give his own answer to the question: Who is Sakharov?

And then there will be the celebration: Andrey Dmitrievich's birthday. We will listen to our favorite musicians and friends: Svyatoslav Richter, Mstislav Rostropovich, Vladimir Spivakov and his virtuosos, and the Lithuanian Choir.

I hope that this celebration is in keeping with the lines by Zhukovskii:

"Don't speak sadly of those dear friends
Whose presence blessed our age.
They are now gone
But be thankful that they were here".

Thank you for your attention.

ADVANCE IN INTERNATIONAL HUMANITARIAN LAW

Mr. KENNEDY. Mr. President, one of the results of the refugee crisis in the Persian Gulf—perhaps the only silver lining to an otherwise enormous tragedy—was the broad humanitarian mandate granted to the United Nations in Iraq. It is a mandate which permits United Nations Humanitarian assistance and personnel to operate even without Iraqi Government cooperation.

These actions, authorized by two Security Council resolutions and in a memorandum of understanding with the Iraqi Government, could represent a significant advancement in international humanitarian law if they can be asserted in other situations and become an accepted principle of international law and practice.

In a thoughtful essay in the Washington Post, the Executive Delegate of the Secretary General, Prince Sadruddin Aga Khan, who is primarily in charge of the U.N. operation, reviews this new development in international humanitarian assistance.

I believe there are some extraordinarily important lessons to be drawn from the international community's recent experience in the Persian Gulf, especially with the Kurdish refugees, and Prince Sadruddin articulates them very well.

Mr. President, I commend his article to the attention of all my colleagues, and compliment Prince Sadruddin not only for a provocative essay but more importantly for an outstanding job in the field.

I ask that the text of the essay be printed at this point in the RECORD.

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

[From the Washington Post, June 12, 1991]

U.N. PROTECTION BORN OF NECESSITY

(By Sadruddin Aga Khan)

On May 23 the United Nations secured Iraqi agreement to the deployment of up to 500 U.N. guards, to be assigned wherever a U.N. humanitarian presence is needed. This is not a pancea for the tensions and dangers of the region—and certainly not a means to "monitor all of Iraq," as Jim Hoagland writes [op-ed, June 5]. That was never the intention. But it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations' somewhat rigid structures, can unblock the impasse.

The world's media spotlight—dazzlingly effective but lamentably brief—has focused on the grim plight of the Kurdish population in northern Iraq, which should not blind us to the needs of the victims of upheaval in other regions. Coalition forces responded first with a military efficiency that is enviable to traditional relief agencies. And since the signing of our framework agreement in Baghdad on April 18, the United Nations has had underway a humanitarian operation designed to bring succor to vulnerable groups throughout the country. The U.N. high commissioner for refugees has already taken over the Zakho transit camp. But security was hard to address within the confines of a humanitarian program.

Recourse to the Security Council was ruled out at the time. The peace-keeping option was tried to no avail. And indeed traditional U.N. peace-keeping, for all its successes, does have one pitfall: It can freeze a situation in an uneasy stalemate, with the underlying issues conveniently shelved by the parties—a

"hard and bitter peace," in the words of John F. Kennedy. Just look at the 33 years of dispute over Kashmir or the 27 years of Cyprus's division.

Another approach was needed. That was why we came up with the "Guards Contingent" formula, blending the disparate humanitarian, political and security elements. A novel if still unproven experiment, the guards' basic mandate is to protect the precious human and material assets deployed in the humanitarian operation. They are neither peace-keepers nor policemen where U.N. resources are not involved. There are no guarantees. But they are there to observe, monitor and report. Any security incidents will be rapidly communicated up the chain of command. In the most direct sense, the guards may be a highly visible but symbolic presence—as indeed are peace-keeping operations themselves, where the "blue helmets" protect more by their color than by their dimension. But the guards ensure the international context. They will bear moral witness and help create confidence. As the eyes and ears of the United Nations, their reports can trigger further action. Moreover, bound as they are to the humanitarian program's time frame, a cutoff date prevents the inertia of the situation in Kashmir or Cyprus.

On first sounding out the concepts in Baghdad, I recalled an earlier idea, which we put forward in a 1981 U.N. report on "Human Rights and Massive Exoduses"—for a corps of "humanitarian observers." These observers were to monitor situations and contribute through their presence to a de-escalation of tensions," as well as to facilitate humanitarian work. In a refugee context, they could contribute to speedy repatriation. Ahead of their time, they never materialized; however, a decade later the guards represent by another name much of that same philosophy.

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vacuum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Critics remind us that the United Nations enjoys no reputation for rapid response to crises: Its potential must indeed be better tapped. Nonetheless it may step in where other powers rightly hesitate to tread. The guards' deployment was risky and cannot shoulder a burden it was never intended to bear, but it deserves its niche in U.N. history. Whatever the outcome, we must not fear to improvise. When hundreds face death each day, as parents bury their children on barren mountaintops, we cannot await the ideal solution. Relief from starvation and disease brooks no bureaucracy.

Complex humanitarian and political challenges defy easy solution. There are no quick fixes: An idea such as the guards contingent for our operation in Iraq can only be part of a broader package. In such situations, where distrust, distress and violence feed upon each other in a poisonous circle, the antidote must have multiple ingredients. First, tensions must be lowered, with the parties agreeing to show some restraint and to support, at the very least, the implementation of the humanitarian program. Specific agreements to that effect should be concluded between all concerned. Second, civilian authority should prevail, reflecting the spirit if not the letter of a demilitarized region. Third, tentative or interim security arrangements might be ensured through a tripartite grouping of both sides together with international representatives associated with the humanitarian endeavor. Other assurances or leverage may come from outside. The tissue of confidence must be rewoven thread by thread. One missing strand, one unchecked incident, will unravel the safety net.

We cut some corners in sending in a first guards contingent before the ink was dry—in fact before the agreement was even signed. And as they had to be part of the humanitarian package, their funding is dependent upon voluntary contributions, in cash or in kind. So far the response has fallen short of the needs, estimated at some $35 million till the end of the year—about as much as it costs the coalition every week, according to press reports, to keep its forces in northern Iraq. Give us the means to make this operation a success. As the refugees return down our "blue routes," we must keep up the momentum. Peace comes cheaper than war; it is also a good investment. Solidarity today can reap stability in a volatile region tomorrow.

OTTO BOS

Mr. CRANSTON. Mr. President, the untimely death of Otto Bos, Gov. Pete Wilson's communications director, is a tragic loss not only to his family but to my State of California.

Only the rare staff member makes the substantive contributions to the public good that Otto made, during his years in San Diego and Sacramento, and in Washington—where he worked closely and on the most cooperative basis—with my staff.

Otto was a personable young man of extraordinary talent, ability, and dedication, with a future promise even greater than his past accomplishments.

I mourn his loss and grieve for his family.

AMBASSADOR JOSEPH VERNER REED'S COMMENCEMENT ADDRESS TO THE GRADUATING CLASS OF THE COLLEGE OF NATURAL RESOURCES AT UTAH STATE UNIVERSITY

Mr. HATCH. Mr. President, I feel that the speech by Ambassador Joseph Verner Reed to the graduating class of the College of Natural Resources at Utah State University in Logan, UT, my home State, should be placed in the RECORD at this point. It is an excellent speech and calls upon those young people to participate in public service in ways that only Ambassador Reed could articulate. Ambassador Reed has had such a tremendous experience working for our Government both here and abroad. He has had the privilege of working in the White House for a long time now, and I do not believe his efforts have ever been excelled.

This particular speech is a model for all commencement speeches and I believe is something that everybody in the country would enjoy reading. Therefore, I ask unanimous consent that it be printed in the RECORD.

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

COMMENCEMENT ADDRESS BY AMBASSADOR JOSEPH VERNER REED TO THE GRADUATING CLASS OF THE COLLEGE OF NATURAL RESOURCES

(Utah State University, Logan, UT, June 8, 1991)

"There is a debt of service due from every man to his country, proportioned to the bounty which nature and fortune have measured to him."—THOMAS JEFFERSON.

Thank you Dean Chapman for that very kind and generous introduction. I hope you don't mind if I call you some time to ask you to read it to my family. They'll never take my word for it!

President Cazier, Provost Morse, Dean Chapman, graduates of the class of 1991, ladies and gentlemen, it is an enormous pleasure to address you today.

It is also something of a challenge, for you and for me. For you, it is a test of endurance. Only in late spring in America do so many listen to so few about so little for so long. The hot air sweeps across the campuses like the Chergui across the deserts of Morocco.

As for me, there's the challenge of trying to deliver a message that the graduates will remember for the rest of their lives. But the foolishness—the absolute folly—of that idea came back to me when I sat back and tried to recall my own commencement and realized that not only did I not remember what was said, I didn't even remember who said it. So with the clear understanding that I am just the filler before the degrees, I can assure you I will be brief. First, let me congratulate the students on your graduation, your parents on their deliverance from tuition payments, your faculty for their infinite patience, and the administration for the magnificent ceremonies today.

I know how difficult it can be to make sure that everything runs smoothly. I recently had the responsibility of helping President Bush to arrange Queen Elizabeth's visit to this Nation, which meant tending to the myriad details of the multimoving parts of a ten day odyssey—from the arrival on the south lawn at the White House to the Orioles baseball game in Baltimore—from nonstop events in Federal City to the tours in Florida and then onto five cities in the Lone Star State. What an adventure! And you can imagine how I felt when I saw the photographs of the Queen making her speech on the White House lawn, or rather, when I saw the Queen's hat peeking above the sea of microphones, since that was the only part of her that was visible. It was dubbed "The Talking Hat." I therefore especially want to congratulate whoever arranged the podiums for this event. They have been exactly the right height. And we may have a job for him in Washington.

I also wish that we had scenery like this in Washington. I can understand what inspired so many of you to study the environment, when there is such incredible beauty to behold around this campus. The mountains have a way of putting human problems into perspective. Washington, D.C., on the other hand, was built on a swamp, and I don't think the country has ever gotten over that fact.

Long before I saw the beauty of this campus, I had a special affection for this university and for the College of Natural Resources. As the dean mentioned, I came to

know the work of the college when I was Ambassador to Morocco. The record of fruitful cooperation between Morocco and Utah State University was extraordinary. The projects were in Rabat and in El Jadida. My loyalty to your school was won on the spot. I send President Cazier and the delegation from USU many good wishes for their forthcoming visit to the kingdom.

And I have a special admiration for this graduating class. For you have chosen to be at the cutting edge. This is the dawn of a new decade, the decade of the environment. During these next ten years, we must grapple with some of the most complex issues facing our Nation—indeed, our world—from global warming and acid rain to water shortages and toxic waste.

And while we are all custodians of the environment, you are the ones who hold the keys. You are the ones, equipped with the knowledge you have gained at this great college, who can balance the need to produce more from our land, while protecting and preserving our environment.

So I would urge you to put your talents to work in public service. You will not only be helping to solve some very specific and pressing problems. You will also be doing something just as important, which is rebuilding confidence in the government itself.

Americans have always been skeptical—and rightly so—of government authority. But over the past several years, they have come to doubt government's ability. And that, I think, is tragic.

In 1989, the National Commission on Public Service found that we had a "quiet crisis" in government.

The Commission, headed by the former Chairman of the Federal Reserve, Paul Volcker, included 35 prominent and experienced Americans. They came from every political stripe from former President Gerald Ford to former Senator Ed Muskie, but they all agreed that we face a grave situation that threatens the very heart of our democracy.

They found that the best people were leaving government. The brightest young people were not joining. And that we as a nation will be unable to confront the difficult challenges of the years ahead, unless we first rebuild the public service and restore confidence in government.

Let me give you just one example of this quiet crisis.

Last year, you may recall, there were environmental initiatives on ballots in States across the Nation. There were twenty-eight initiatives in California alone.

But even though 94% of the American people told the pollsters that the environment is an important issue, and even though 64% said they believe they should personally do more to help, those same people went to the polls to defeat virtually every one of those initiatives in California, New York, Missouri, and Oregon.

Why? In part, because some of the proposals were bad ideas.

Some were too expensive.

Others were just too confused and confusing.

But I think there was a deeper reason. People did not have the confidence that government could solve the problem. They did not trust government to spend the money wisely to clean up the environment.

Having spent time both in and out of public service, I think I can understand people's disillusionment with government. In the 1960's and 70's, we were told that more government was the answer. And yet we found that government programs could not spend people out of poverty.

In the 1980's, we heard that less government was the answer. And yet as the failing saving and loans testify, that is not always the case.

All along, I think that the people of this country have known that the answer is not necessarily more government, or less government, but better government.

And I would submit to you that as we approach the next century, we need the best possible government for this Nation.

Under President George Bush's leadership, that is exactly what we have sought to achieve. The President has not let the Volcker Commission report sit on a shelf, but has taken it to heart. The President has worked to restore competence and rebuild confidence in government.

The Volcker Commission said that we must attract more college graduates to government. And we have gone to the campuses to recruit students with the Career America Program.

They said that we should adjust the pay of government workers and, as unpopular as it was, the President has signed legislation to bring about parity with the private sector over the next ten years. I have no reservations about saying that was the right thing to do. It is a wise investment and a good value for our country.

The Commission recommended that we must do more to encourage volunteerism. George Bush, more than any President before him, has encouraged Americans to light the way toward the future by offering their time to help others.

And most importantly, the Commission said government must prove, through its own performance, that it deserves public support.

I believe the American Government has begun to regain the confidence of the American people. In the gulf war, we saw that our Government works. We saw a military establishment that produced state of the art equipment that worked, and orchestrated the greatest airlift in the history of the world; we saw the patient diplomacy of the President at the White House, the diplomats at the State Department and a tireless Secretary James Baker work in building an unprecedented coalition of nations on the side of freedom; we witnessed the skillful use of the parliament of man, the United Nations, which was employed exactly as it was intended by the signers of the charter in San Francisco, and we stood in awe and admiration of the 500,000 brave American men and women who brought freedom and peace to the Persian Gulf. We saw that our way of government is still the greatest institution on the face of this Earth.

Yet with all the progress we have made, we have a long way to go to make our Government as good as it can be. We need the youth and energy of the class of 1991 to revitalize our public service.

We need your thoughts on how to solve our environmental problems at a price we can afford. We need your experience in searching for the best, and not just the easiest answers. We need your commitment to make our government more effective and responsible.

So I would ask you, in this hour of our Nation's need, to answer the call to public service. As graduates of this distinguished college, you have the training, the knowledge, and all that it takes to make a difference.

For those graduates who are still trying to figure out what to do with your lives, I can tell you that you will find no more satisying career than public service.

For those of you who decide upon government, I would ask that you think of it not as just another job, but as answering to the higher purpose of serving this Nation.

And for all of us, young and old, I think that public service is part of our obligation as Americans. We who have been given so much, the blessings of which we celebrate today, have a sacred duty to contribute to the success and direction of this free society.

As President Bush said in his inaugural address:

"We are not the sum of our possessions. They are not the measure of our lives. In our hearts we know what matters. We cannot hope only to leave our children a bigger car, a bigger bank account. We must hope to give them a sense of what it means to be a loyal friend, a loving parent, a citizen who leaves his home, his neighborhood, and (his nation) better than he found it."

And now I stand here before you as the final obstacle to your graduation. So let me thank you for listening, for the honorary degree you have bestowed, and for the honor of addressing you. And one piece of advice. . .

Class of '91

Chase your dreams!

And let me leave you with the only expression I know that means hello, goodbye, hope to see you again and good luck:

Aloha!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,279th day that Terry Anderson has been held captive in Lebanon.

Today also marks the 2,195th day for Thomas Sutherland. On Sunday, Mr. Sutherland's family and friends gathered to commemorate this sixth anniversary as a hostage in Lebanon. His wife, Jean, remarked, "For us, June 9 is the time when we feel the support of all our friends, all over the world." I would note that the Sutherland family has my support. And my prayers for the swift return of their husband and father.

Mr. President, I ask unanimous consent that an Associated Press report regarding this significant day be included in the RECORD at this time.

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

FAMILY COMMEMORATES SUTHERLAND'S SIXTH YEAR IN CAPTIVITY

FORT COLLINS.—Friends and family of Thomas Sutherland, who will mark his sixth year in captivity Sunday, planned to observe the anniversary with a picnic and talking only of the hope that Sutherland will soon be released.

"When we remember him, we don't look back at all the time it has been," said Sutherland's daughter Kit, 31, who lives in Fort Collins, "We would rather look at the short time it will probably be (until his release)."

Sunday marks Sutherland's sixth year as a hostage 2,192 days. He is one of 13 Westerners, including six Americans, who are missing. Most are believed held hostage in Lebanon by pro-Iranian factions. Iran has said it cannot compel those groups to free the hostages, but has also said it would use its influence to encourage a release.

The longest-held is Terry Anderson, chief Middle East correspondent for The Associ-

ated Press. He was abducted in Beirut on March 16, 1985.

Sutherland, 60, was on leave from Colorado State Unversity when he was abducted in June 1985. He was in Beirut working as the dean of agriculture at American Unversity.

"We must not forget that Tom continues to suffer as a hostage,' said Frank Vattano, CSU psychology professor and Sutherland's friend. "the picnic is a quiet way to remember and recall how long he's been kept from enjoying he everyday pleasures many of us take for granted."

Last week, volunteers decked Fort Collins' main street, College Avenue, with yellow ribbons from one end of town to the other. Trees on the CSU campus were also trimmed with yellow ribbons.

"It can't last," said Jim Johnson, a CSU professor and longtime friend to the Sutherlands. "We made a pledge not to let people forget about it.* * * But this has certainly got to be the last."

Sutherland's wife, Jean, also expressed hope of a imminent release.

"This year we don't want to focus on the captivity the way we always did," she said. "This year, we're looking forward toward the day we can commemorate the day of the release. It feels more positive.

"For us, June 9 is the time when we feel the support of all our friends, all over the world," she said Friday at her home on the campus of the American University of Beirut. "Their support has been tremendous."

The Sutherland family also released a universal message to commemorate Sutherland's captivity. The family's message said, "We give our love to you for the love you have given to us. We offer our commitment to you for the commitment you have offered to us. We find our strength in you for the strength you have found in us. Together may we share at this time ever renewed faith and hope for peace."

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nomination:

Calendar 180, Preston Moore, to be Chief Financial Officer, Department of Commerce.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF COMMERCE

Preston Moore, of Texas, to be Chief Financial Officer, Department of Commerce.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

COMPREHENSIVE URANIUM ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 95, S. 210, regarding uranium enrichment.

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

The assistant legislative clerk read as follows:

A bill (S. 210) to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for reclamation of mill tailing generated pursuant to Federal defense contracts at active uranium and thorium processing sites.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Comprehensive Uranium Act of 1991".

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1991.".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprse provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101–9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"[(1)] *a.* to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"[(2)] *b.* to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"[(3)] *c.* to market and sell enriched uranium and uranium enrichment and related services to—

"[(A)] *(1)* the Department for governmental purposes; and

"[(B)] *(2)* qualified domestic and foreign persons;

"[(4)] *d.* to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"[(5)] *e.* to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"[(6)] *f.* to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"[(7)] *g.* to maintain a reliable and economical domestic source of enrichment services;

"[(8)] *h.* to conduct its activities in a manner consistent with the health and safety of the public;

"[(9)] *i.* to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"[(10)] *j.* to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided,* That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or Government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized;

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; *Provided,* That, this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided [elsewhere in this title,] *in section 1404*, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided, however*, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503[(c)]*d*, except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, U.S.C.;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, U.S.C., including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"*a*. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility[:].

"[a.] *b*. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"[b.] *c*. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"[(c).] *d*. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504[(a)]*b*. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504[(a)]*b*. during their term of employment, regardless of any recommendation received or not received under this title.

"[d.] *e*. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"[e.] *f*. Upon expiration of the initial term, such Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"[f.] *g*. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"[g.] *h*. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"[h.] *i*. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"[i.] *j*. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such responses shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response

under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"*a.* Officers and employees of the Corporation shall be officers and employees of the United States[:].

"[a.] *b.* The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided,* That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503[(c)]*d.* and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"[b.] *c.* Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"[c.] *d.* This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, martial status, or handicap conditions.

"[d.] *e.* Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"[e.] *f.* Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"[f.] *g.* The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—[In order to enable the Corporation to exercise the powers and duties vested in it by this title:]

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided,* That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further,* That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided,* That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the

Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION[:].—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING[:].—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING[:].—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection [(a)] *a.*, amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505[(a)]*a.* at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in para-

graph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The cost of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Controller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. [Reports:] *REPORTS.*—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION[:].—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appear in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General [manager] *Manager*.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS[:].—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152[,] *or;* 153 b. (1)[, and 158] of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility *under section 183 of title 35, United States Code* with respect to secrecy orders imposed under [section 181 of title 35, United States Code, through 187.] *section 181 of such title.*

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING[:].—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed *beginning in fiscal year 1997* to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. [The] *Beginning in fiscal year 1997, the* corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) [In no event shall the payment made to any taxing authority for any period] *Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall* be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., [110 a.,] 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS[:].—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility [to obtain necessary funds with which] to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title [or January, 1993, whichever is later,] the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT[:].—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS[:].—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State, and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title [II, 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.]

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100–202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this Act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this Act: *Provided, however,* That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act [and previous Acts.]

SEC. 118. PAYMENT OF COST OF TRANSFER.—

(a) Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 112 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

TITLE II[—URANIUM]

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1991".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 per centum drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation es-

tablished under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of documentation, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B) and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a pro-rated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall

be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

Subtitle D—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

SEC. 230. FINDING AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 231. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any state agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "state agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 232. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

(a) Within sixty days after the date of enactment of this subtitle, the United States International Trade Commission, shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) The Secretary, the Administrator and the Secretary of Commerce shall cooperate fully with the Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the production costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c)(1) Within one year after the date of enactment of this part and annually thereafter, the Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the Commission, shall transmit to the Congress a report on what actions are being taken by the Federal Government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) The Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 233. URANIUM PURCHASES REPORTS.

(a) By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined or,

(2) with respect to enriched uranium, that country where the uranium was mined and enriched, or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 234. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Within one year of the date of enactment of this subtitle, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 235. UNITED STATES PURCHASE OF ENRICHED URANIUM.

(a) Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce production costs and maintain competitive prices.

(b) If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

The PRESIDING OFFICER. Without objection, the reported committee amendments are agreed to.

Are there further amendments?

AMENDMENT NO. 318

(Purpose: To correct a printing error in the text of S. 210)

Mr. MITCHELL. Mr. President, on behalf of Senator FORD, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. FORD, proposes an amendment numbered 318.

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

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

The amendment is as follows:

On page 59, strike lines 8 through 10, and insert in lieu thereof the following:

"(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include 'United States Enrichment Corporation' at the end thereof."

The PRESIDING OFFICER. Without objection, the amendment (No. 318) is agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, almost one-half of the capital base of the United States electric power industry is invested in 100 uranium-fueled nuclear facilities that now supply 20 percent of the United States' electricity. In addition, our nuclear fleet of 150 uranium-fueled submarines and surface ships must have sufficient uranium to assure an uninterrupted fuel supply.

For more than five years the Committee has labored with this critical matter only to have legislative proposals passed by the Senate on four occasions die in the House. The Congress is long overdue in coming to grips with the fact that the Federal Government's uranium enrichment enterprise is no longer able to effectively compete with its more aggressive counterparts around the world.

Since we began this effort, the character of international markets has

changed dramatically. The Soviet Union is now actively dumping uranium and enriched uranium in order to increase their market share. Only last week, the Soviet Union's Techsnabexport announced that it had formed a joint venture with Concord/Nuexco—the Global Nuclear Services & Supply Inc.—to market the full range of nuclear fuel services of the U.S.S.R.'s Ministry of Atomic Power & Industry. Its principal office will be in Washington, DC, although Global Nuclear is being incorporated in Switzerland.

The Soviet Union is clearly bent on becoming a major force in the United States fuel market. Among their announced objectives is greater hard-currency income and an announced intent to capture in excess of 25 percent of the Western world's nuclear fuel market. How they intend to achieve the market share that is their stated objective is not fully understood. But my concern is enhanced by their recent creation of Global Nuclear Services.

The committee amendment thus provides for a study by the International Trade Commission of the uranium and uranium enrichment marketing practices of nonmarketing countries. The committee is not as much concerned for whether or not dumping is occurring, or whether or not economic injury is being incurred, as it is concerned for whether or not their prices reflect true production costs. In this regard, I recognize that it is difficult to determine comparable production costs for such non-market economies to those for market economies.

But, even more importantly, I am concerned with what actions the Administration proposed to discourage marketing practices such as those being promoted by the Soviet Union.

No matter what your vantage point, whether you view this matter from the perspective of the bureaucrat, the budget cruncher, the taxpayer, or DOE's customers, their actions must be viewed as a threat to DOE's enrichment enterprise and the Enrichment Corporation that this legislation would establish. Soviet prices appear to bear no relationship to real production costs. As a consequence, their marketing practices have already—the Soviet's marketing practices—have driven uranium prices to record lows which have led to the closure of many mines and mills in the United States.

The full scope of the threat of the Soviet Union's marketing practices to DOE's enrichment enterprise is unknown, but informed sources estimate that their stockpiles range as high as 500 million pounds. Moreover their estimated annual production of uranium may be as high as 35 million pounds a year. By comparison, the U.S. uranium production last year was about 8.7 million pounds, less than 25 percent of U.S. demand. With little effort the Soviets could dump uranium on the international marketplace in volumes greater than the entire United States production.

The Soviets have made no secret of their efforts to capture a substantial part of the world market in nuclear fuel. Experts believe they could easily export enough enriched uranium to take half of DOE's U.S. market and more natural uranium than all the U.S. production projected for this year.

U.S. utilities need about 40 million pounds of uranium a year to run the reactors that now supply almost 20 percent of our needs for electrical power. Already half of this uranium is imported from abroad. After 1995, with inventories depleted, uranium imports will increase sharply.

Some of these imports will come from countries like Canada, but more will come from other sources like Russia, China, and Africa. It is ironic that the utilities which spend millions to advertise their concerns about our dependence on foreign oil are willing to become so dependent on foreign sources for nuclear fuel.

Utilities talk about the need to buy the cheapest fuel, but they may be "penny wise and pound foolish" in taking this approach. The fuel costs for uranium and enrichment services are only 7 percent of the total cost of nuclear energy. To pay a few cents more for U.S. products seems a small price to pay to reduce long-term security risks.

I fully support Congressional efforts to restructure DOE's enrichment enterprise into a creature that thinks, looks, acts, and responds like a business. Whether the Soviet Union is dumping uranium or not is not the question. The concern is the effect of their pricing practices on domestic uranium producers and the Federal enrichment enterprise which must meet the U.S. uranium enrichment requirements for defense purposes as well as its commercial customers.

In addition, the Enrichment Corporation must be able to respond to the Soviet Union's marketing practices once it is established. For this reason the committee bill grants DOE authority to buy uranium and enriched uranium from the Soviet Union on the same basis as DOE's customers. DOE would thus have the option, which it does not now have, of buying the Soviet enriched uranium being dumped.

If DOE were to elect to purchase Soviet enriched uranium it could reduce its production costs. Some of the cost savings could be passed on to DOE's utility customers—thus reducing domestic enriched uranium prices.

In order to protect the domestic mining industry from a possible side-effect of such purchases, DOE is restricted in its use of natural uranium stocks provided to it by its utility customers. For example, if DOE were to purchase enriched uranium on the world market, any utility owned uranium stocks held by DOE could not be sold; however, DOE could use such stocks for overfeeding purposes and thus could further reduce its costs. Some of these cost savings could be passed on to DOE's customers.

It must be recognized that the success of the Soviet Union's marketing strategy depends, in part, on the apparent willingness of some United States utilities to buy Soviet natural or enriched uranium and enrichment services. There is no common practice in this regard. Some utilities will not buy Soviet uranium. Others restrict their purchases because of recognition that a viable domestic industry is in their interest.

But what is happening is being influenced by an uncertainty regarding approval of such purchases by State regulatory commissions. Spokesmen for utilities have expressed concern that should they purchase domestic uranium or enriched uranium at prices higher than they can obtain their needs internationally that their domestic purchases will be questioned by State regulatory bodies as prudent.

This is a valid concern which is addressed in the committee amendment which directs the Secretary of Energy to encourage State utility authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow recovery of associated uranium costs through rates charged to customers.

Mr. President, it ought to go without saying that until we can once again assure the future of nuclear power as a viable option in our Nation's energy future, our continuing dependence on imported oil will remain a threat to our Nation's economic health and energy security.

S. 210 is structured to address this concern. I recommend it for your support.

The PRESIDING OFFICER. Without objection, the bill is deemed read three times and passed.

So the bill (S. 210), as amended, was passed, as follows:

S. 210

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

That this Act may be referred to as the "Comprehensive Uranium Act of 1991".

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1991".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011–2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101–9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title

and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or Government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized;

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; *Provided*, That, this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided, however*, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, U.S.C.;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In

the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, such Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such responses shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code; Provided, that the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, martial status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge

enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to

the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The cost of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Controller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or; 153 b. (1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents

granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the coopera-

tion, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State, and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this Act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this Act: *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act.

SEC. 118. PAYMENT OF COST OF TRANSFER.—(a) Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 112 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

TITLE II

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1991".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 per centum drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U–235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of documentation, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B) and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a pro-rated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

Subtitle D—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

SEC. 230. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) determine whether any uranium or enriched uranium is being exported by nonmarket economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 231. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 232. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

(a) Within sixty days after the date of enactment of this subtitle, the United States International Trade Commission, shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) The Secretary, the Administrator and the Secretary of Commerce shall cooperate fully with the Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the production costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c)(1) Within one year after the date of enactment of this part and annually thereafter, the Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the Commission, shall transmit to the Congress a report on what actions are being taken by the Federal Government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) The Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 233. URANIUM PURCHASES REPORTS.

(a) By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator: and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined or,

(2) with respect to enriched uranium, that country where the uranium was mined and enriched, or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 234. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, in-

cluding the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Within one year of the date of enactment of this subtitle, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 235. UNITED STATES PURCHASE OF ENRICHED URANIUM.

(a) Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce production costs and maintain competitive prices.

(b) If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MAKING CERTAIN TECHNICAL CORRECTIONS IN THE JUDICIAL IMPROVEMENTS ACT OF 1990

Mr. SYMMS. Mr. President, on behalf of Senator THURMOND, I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1284) to make certain technical corrections in the Judicial Improvements Act of 1990.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, I rise today, along with Senator HEFLIN, to introduce a bill that will make certain technical corrections to the Judicial Improvements Act of 1990, which was passed in the last Congress. This bill will correct some technical drafting mistakes in the Judicial Improvements Act to ensure that the act is properly implemented.

I would like to briefly address one particular provision which deals with teaching income for retired judges and justices. Under law, outside earned income for a judge or a justice may not exceed 15 percent of his or her annual salary. In the Judicial Improvements Act of 1990, Congress allowed teaching income to be exempt from the 15-percent cap for retired judges. This bill will extend the same exemption to retired Justices of the U.S. Supreme Court.

Mr. President, this legislation will make certain technical amendments to the Judicial Improvements Act of 1990. I urge my colleagues to support its passage.

The PRESIDING OFFICER. Are there amendments to the bill?

If there are no amendments, the bill is deemed read a third time and passed.

The bill (S. 1284) was passed, as follows:

S. 1284

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

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. REVIEW OF DISTRICT COURT ACTION.

Section 474(a) of title 28, United States Code, as amended by sections 103 and 474 of the Judicial Improvements Act of 1990, is amended—

(1) in paragraph (1) by striking "court of appeals for such"; and

(2) in paragraph (2) by striking "a court of appeals" and inserting "a circuit".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by—

(1) striking the comma after "title"; and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)) as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) TEACHING COMPENSATION OF JUSTICES AND JUDGES RETIRED FROM REGULAR ACTIVE SERVICE.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

"(3) when received by a judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

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

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

The motion to lay on the table was agreed to.

SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 113, S. 909, a bill regarding semiconductor chips.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 909) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

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

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments to the bill? If not, the bill is deemed read a third time and passed.

The bill (S. 909) was passed, as follows:

S. 909

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 "Semiconductor International Protection Extension Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) section 914 of title 17, United States Code, which authorizes the Secretary of Commerce to issue orders extending interim protection under chapter 9 of title 17, United States Code, to mask works fixed in semiconductor chip products and originating in foreign countries that are making good faith efforts and reasonable progress toward providing protection, by treaty or legislation, to mask works of United States nationals, has resulted in substantial and positive legislative developments in foreign countries regarding protection of mask works;

(2) the Secretary of Commerce has determined that most of the industrialized countries of the world are eligible for orders affording interim protection under section 914 of title 17, United States Code;

(3) no multilateral treaty recognizing the protection of mask works has come into force, nor has the United States become bound by any multilateral agreement regarding such protection; and

(4) bilateral and multilateral relationships regarding the protection of mask works should be directed toward the international protection of mask works in an effective, consistent, and harmonious manner, and the existing bilateral authority of the Secretary of Commerce under chapter 9 of title 17, United States Code, should be extended to facilitate the continued development of protection for mask works.

(b) PURPOSES.—The purposes of this Act are—

(1) to extend the period within which the Secretary of Commerce may grant interim protection orders under section 914 of title 17, United States Code, to continue the incentive for the bilateral and multilateral protection of mask works; and

(2) to clarify the Secretary's authority to issue such interim protection orders.

SEC. 3. AUTHORITY TO ISSUE PROTECTION ORDERS.

Section 914 of title 17, United States Code, is amended—

(1) in subsection (a)(1)(B) by inserting "or implementing" after "enacting"; and

(2) in subsection (e) by striking "July 1, 1991" and inserting "July 1, 1995".

SEC. 4. REPORT TO CONGRESS.

Section 914(f)(2) of title 17, United States Code, is amended in the last sentence by striking "July 1, 1990" and inserting "July 1, 1994".

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

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

The motion to lay on the table was agreed to.

REMARKS BY THE PRESIDENT AT THE 100 DAYS EVENT

Mr. SYMMS. Mr. President, I ask unanimous consent that a statement by the President of the United States be printed in the RECORD.

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

The text of the President's statement follows:

Thank you, good evening. Members of the Cabinet, honored guests. Dr. Benjamin Payton of Tuskegee Institute who brings a lifelong commitment to our Historically Black Colleges, welcome. Governor Campbell, Governor Castle. Drew Batavia, winner of the 1988 Distinguished Disabled American Award, welcome to you, sir. To Robert Egger, founder of the D.C. Central Kitchen, and the 60 other Points of Light who are here tonight, your work inspires the Nation. Mayor Hackett of Memphis, Mayor Myric of Charlotte, County Commissioner Klinger, good to see you all again. I see Paul O'Neill, Chairman of ALCOA, a dedicated advocate for educational excellence. And to the rest of this extraordinary gathering—leaders of businesses, veterans groups, associations, volunteer organizations, education partnerships, and all those who make America the land of opportunity, welcome to the White House.

Over the past 30 months, the world has changed at a dramatic pace. America has been called upon to meet one challenge after another. And meet them we did—each and every one of them. From Eastern Europe, to Panama, to the Persian Gulf, our country stands strong as a champion of freedom.

Ninety-eight days ago, I asked Congress to tackle the urgent problems on the home front with the same energy we dedicated to tackling the crisis on the battlefront. I spelled out my domestic priorities, setting out an ambitious agenda founded upon enhancing economic growth, investing in our future, and increasing opportunity for all Americans. I sent to the Congress literally hundreds of recommendations for legislative change. Then I specifically asked that Congress pass just two laws in a hundred days—a comprehensive anti-crime bill, and a transportation bill.

I thought a hundred days was pretty reasonable. It is now clear that neither will be on my desk by Friday. I am disappointed, but frankly I'm not surprised. Tonight I would like to put this all in some perspective. I haven't asked you here to sit through a litany of programs and policies. We have a long list of legislative priorities already before the Congress, awaiting congressional action. I won't repeat that list here tonight. Rather, I'd like to do something different, and describe to you how I personally see the shared strength and promise of America.

It is hard for the American people to understand why a bill to fight crime cannot be enacted in a hundred days; or why Congress can't pass a highway bill in a hundred days. Most Americans believe fear of crime and violence threatens our most basic freedoms—denies us opportunity.

They also believe we must invest in our future—provide an infrastructure for those who come after us. So they don't understand the complications, the inaction, the bickering, particularly when so many do understand what it takes to solve problems in their own neighborhoods: commitment, compassion, and courage.

I cannot fully explain this inaction to the American people. As I said, I'm disappointed, but not surprised. But I can say this as partial consolation: America's problem-solving does not begin or end with the Congress.

Yes, it would help if Congress would do what the people are asking of them. I'll keep working with the Congress—my hand remains extended. But we cannot let Congress discourage or deter us from meeting our responsibilities.

I believe the people gathered here tonight, under the twilight shadow of Washington's Monument, understand this better than most. You are extraordinary Americans, representing thousands of others. You bring to life the genius of the American spirit, and it is through you and with you that we can solve our most pressing problems. Together we can transform America, and create whole and good communities everywhere. Tonight, all Americans can help lead the way.

A great nation has the courage to be honest about itself. And we are a great nation. I believe that absolutely, as do you. We are indisputably the world's most powerful force for freedom and economic growth. Still, no one can deny that we have enormous challenges. Not all Americans are living the American Dream. Many can't even imagine it.

There are impoverished Americans, the poor and the homeless, the hungry and the hopeless, many unable to read and write. There are Americans gone astray, the kids dragged down by drugs, the shattered families, the teenage mothers struggling to cope. Then there are Americans uneasy, troubled and bewildered by the dizzying pace of change.

For many years I have crisscrossed this Nation. As President, part of my job is going to small towns and big cities, schools, neighborhoods and factories. Those are the places where you discover what's good and right about our country, and what's going wrong, too.

The state of our Nation is the state of our communities. As our communities flourish, our Nation will flourish. So we must seek a nation of whole communities, a nation of good communities—an America, Whole and Good.

What defines such a community? First, it is one that cares for the needs of its young people by building character, values and good habits for life. Second, it's a community that provides excellent schools—schools that spark a lifelong interest in learning. Next, there is opportunity and hope rooted in the dignity of work, and reward for achievement. Fourth, it's where people care about their health and their environment, and where a sense of well-being and belonging is nurtured. Finally, all of its neighborhoods are decent and safe.

Because millions of Americans have chosen to lead the way, these are not just dreams. Thousands of whole and good communities already flourish in America—communities where ordinary people have achieved the American Dream. We should never lose sight of that. America is the most prosperous, productive, enlightened Nation on Earth—a nation that can do anything. And we can do even better.

We should be confident about what lies ahead. America has a track record of success—success shaped with our own hands. Sometimes, in our impatience, we've made mistakes, but when we do, we dust ourselves off, and go at it again. Every American should take pride in this country's fundamental goodness. Each of us must resolve in our own hearts that for all the good we've done, it's time to do better, much, much better.

Conventional wisdom in our day once held that all solutions were in the hands of government: call in the best and brightest and hand over the keys to the national treasury; bigger government was better government; compassion measured in dollars and cents; progress by price tag. We tried that course. As we ended the 70's—our economy strangling on inflation, soaring interest rates, and unemployment—America turned away from government as "the answer."

So conventional wisdom then turned to the genius of the free market. We began a decade of exceptional economic growth and created 20 million new jobs. Yet, many of our streets are still not safe, our schools have lost their edge, and millions still trudge the path of poverty. There is more to be done, and the marketplace alone can't solve all our problems.

Is the harsh lesson that there must always be those who are left behind? America must have but one answer. That answer is No. There is a better way, one that combines our efforts—those of a government properly defined, the marketplace properly understood, and service to others properly engaged. This is the only way to an America Whole and Good.

It requires all three forces of our national life. First, it requires the power of the free market; second, a competent, compassionate government; third, the ethic of serving others—including what I call Points of Light. These three powerful forces create the conditions for communities to be whole and good, and it's time we harnessed all three of them.

In our complex democracy, power is fragmented. That can be frustrating. But on balance it's for the good. And power tends to move toward those who serve the greater good: entrepreneurs, like John Bryant, a young self-starter who has built a multi-million dollar enterprise and now helps rebuild inner city Los Angeles; caring individuals like Mack Stolarski, a retired carpenter who now helps his student apprentices repair homes for the poor and disabled.

And because of the power of the free market, what so much of the world can only imagine, we take for granted: abundant food on the shelves of our supermarkets, and quality products at our shopping centers. Nothing beats the free market at generating jobs, income, wealth, and a better quality of life.

The good news in communities is that the free market is now applying its resources and know-how to our social problems. Many companies, recognizing that tomorrow's workers are today's students, are leaders of a revolution in American education—partners in our exciting America 2000 strategy. Others are crusaders for environmental protection, while still others are innovators from health care to child care.

Transforming America requires not only the power of the free market, but also a dynamic government. To be the enlightened instrument of the people—the government of Jefferson and Lincoln and Roosevelt—and the embodiment of their vision—it must truly be a force for good.

I believe in this kind of government—a government of compassion and competence. And I believe in backing it up with action. Here tonight, for example, is Mrs. Lauren Jackson-Floyd, one of the first Head Start graduates. Now she teaches preschoolers in that same marvelous program. Her success is why we expanded Head Start by almost three quarters of a billion dollars. And last year I signed our child care bill to expand parents' choices in caring for their children.

We fought for a Clean Air Act that puts the free market in the service of the environment, and we won. The Americans with Disabilities Act, the most important Civil Rights Bill in decades, has brought new dignity and opportunity to our Nation's disabled—disability leaders like Justin Dart and Evan Kemp were right here when I signed it.

Jack Kemp and I stood with Ramona Younger in Charles Houston Community Center in Alexandria, Virginia—if the Congress enacts our HOPE Initiative, these public housing tenants can become America's newest homeowners. Dewey Stokes here, President of the Fraternal Order of Police, wants to help make our neighborhoods safer—that's why he supports our crime bill. And if we get a civil rights bill like the one I sent to the Congress, we will take an important step against discrimination in the workplace.

This is not big government—this is good government.

Finally, along with the forces of the free market and the Government, we must add the ethic of voluntary service—Points of Light. That is not a phrase about charity. It is about the light that is within us all. A light that brightens the lives of others and makes whole the lives of those who shine it. As the verse of Randy Travis' song says, "a ray of hope in the darkest night."

Points of Light is a call to every American to serve another in need. But no one of us can solve big problems like poverty or drug abuse by ourselves. Only the combined light from every school, every business, place of worship, club, group, and organization in every community can dissolve the darkness.

Whether a company holds an after-hours literacy program for its workers, a police station counsels tough kids, or third graders phone lonely homebound senior citizens, Points of Light show those in need that their lives matter.

Government, and the market, joined with Points of Light, will overwhelm our social problems. This is how we must guarantee the next American Century. Every person, every business, every school board—our associations, our clubs, our places of worship—we all have the duty to lead.

Only then, can we truly think and act anew. Now Congress, too, must understand the successes and failures of the past and help us forge a certain future for America.

The people gathered here tonight represent those who refuse to rest easy. I look out and see so much reflected in your faces—the strength, the conviction, the commitment. You represent those millions of Americans who use power to achieve a greater good. I know, because you've brought me into your homes and your neighborhoods, your schools and your churches.

Last year I walked through a reclaimed crackhouse in Kansas City with Al Brooks, the leader of an anti-crime coalition. I learned more about how we can fight crime in 2 hours than in 2 months of TV news.

Another day I visited D.C. General Hospital, and held a tiny boarder baby in my arms, the child of a cocaine addict. The remarkable dedication of the women who rescued these babies was just as moving. America needs to hear that story, too.

Just a few months ago, I dropped in on a little West Virginia school in a town called Slanesville. The National Teacher of the Year teaches remedial reading there. Her name is Rae Ellen McKee and she's here tonight. Visiting her gave me the opportunity to say to the Nation, "thank God for our teachers."

Just yesterday I spoke before the graduating class of the James H. Groves Adult High School in Sussex County, Delaware. I invited the class to join us tonight. I went there with Governor Castle to honor these men and women who had the courage to go back to school and get their diplomas. They honored us by telling America to be a nation dedicated to lifelong learning.

These are the Americans who love this country for what it is and for what it can become. These are the Americans who make this a nation of boldness—filled with problem solvers—gifted with the American tradition of living up to our ideals. These are the

Americans who prove that no one in America is without a gift to give, a skill to share, a hand to offer.

This is the genius of America—ordinary Americans doing extraordinary things.

The Congress can refer our proposals to its hundreds of committees, tie itself up with debate, and produce complicated, expensive, unworkable legislation. But in the end, we must carry forward the magic of America. We must carry forward what is good, and reach out and embrace what is best. We must do the hard work of freedom. I know you have. I know you will. Through you, our country can become an America Whole and Good. For that our country is grateful, and because of that our country will prevail.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; and

H.R. 2123. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 142. A concurrent resolution extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT, and pledging the cooperation and support of the Congress of the United States.

ENROLLED JOINT RESOLUTION SIGNED

At 7:47 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on yesterday, June 11, 1991, during the recess of the Senate, he had signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House:

S. 292. An act to expand the boundaries of the Saguaro National Monument;

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991"; and

H.J. Res. 219. Joint resolution to designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week".

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 12, 1991, he had presented to the President of the United States the following enrolled bills:

S. 292. An act to expand the boundaries of the Saguaro National Monument; and

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1375. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Governmental Affairs.

EC-1376. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Equal Employment Opportunity Commission, for the period October 1, 1990, to March 31, 1991 to the Committee on Governmental Affairs.

EC-1377. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Energy, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1378. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Labor Relations Board, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1379. A communication from the Chairman of the Oversight Board of the Resolution Trust Corporation and the Chairman of the Resolutions Trust Corporation, transmitting jointly, pursuant to law, the semiannual report of the Office of Inspector General, Resolution Trust Corporation, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1380. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, United States Information Agency, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1381. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Science Board, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1382. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1383. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report on audit resolution followup activity for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1384. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1385. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Emergency Management Agency, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1386. A communication from the Chairman of the PCA Retirement Plan, Federal Intermediate Credit Bank of Jackson, transmitting, pursuant to law, the annual pension plan report of the Production Credit Associations Retirement Plan for the plan year ended December 31, 1990; to the Committee on Governmental Affairs.

EC-1387. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for the calendar year 1990; to the Committee on Governmental Affairs.

EC-1388. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1389. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1990"; to the Committee on Governmental Affairs.

EC-1390. A communication from the Director of the Federal Domestic Volunteer Agen-

cy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Domestic Volunteer Agency, and the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1391. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Securities and Exchange Commission, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1392. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Commerce, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1393. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Office of Personnel Management, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1394. A communication from the Director of the Office of Government Ethics, transmitting a draft of proposed legislation to amend section 202 of title 18, United States Code, to provide for Presidential waiver authority of certain conflict of interest statutes; to the Committee on Governmental Affairs.

EC-1395. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Health and Human Services, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1396. A communication from the Administrator of General Services, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1397. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC-1398. A communication from the President of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the annual audit report of the Association for fiscal year 1990; to the Committee on the Judiciary.

EC-1399. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the 1990 annual report of the Director of the Administrative Office of the United States Courts and the March and September proceedings of the Judicial Conference of the United States held in 1990; to the Committee on the Judiciary.

EC-1400. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the annual report of the Endowment for 1990; to the Committee on Labor and Human Resources.

EC-1401. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

EC-1402. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorizations of appropriations for certain youth programs under the Anti-Drug Abuse Act of 1988; to the Committee on Labor and Human Resources.

EC-1403. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of Black Lung benefits for calendar year 1989; to the Committee on Labor and Human Resources.

EC-1404. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to improve the supervision and regulation with respect to financial safety and soundness of the Student Laon Marketing Association, and for other purposes; to the Committee on Labor and Human Resources.

EC-1405. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, TX; to the Committee on Veterans' Affairs.

EC-1406. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report on the administration of the Montgomery GI bill education assistance program for the period October 1, 1989, to September 30, 1990; to the Committee on Veterans' Affairs.

EC-1407. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 2427: A bill making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-80).

By Mr. REID, from the Committee on Appropriations, with amendments:

H.R. 2506: A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102-81).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Mike Hayden, of Kansas, to be Assistant Secretary for Fish and Wildlife, Department of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

James R. Whelan, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 30, 1994; and

Christopher D. Coursen, of Maryland, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1277. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, Mr. BURDICK, and Mr. CHAFEE):

S. 1278. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1992, 1993, and 1994, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRANSTON (by request):

S. 1279. A bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

S. 1280. A bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

S. 1281. A bill to provide for immediate delivery of United States Savings Bonds available to the public at the point of purchase; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1282. A bill to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association; to enhance the safety and soundness of the Farm Credit System; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued licenses; to the Committee on Energy and Natural Resources.

By Mr. SYMMS (for Mr. THURMOND (for himself and Mr. HEFLIN)):

S. 1284. A bill to make certain technical corrections in the Judicial Improvements Act of 1990; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1277. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT

• Mr. LAUTENBERG. Mr. President, I rise to introduce the Beaches Environmental Assessment, Closure and Health [BEACH] Act of 1991. I am pleased to be joined by my colleague, Senator BRADLEY. It is similar to legislation introduced in the other body by Congressman BILL HUGHES. The bill will ensure the safety and beauty of coastal beaches across the country by establishing uniform testing and monitoring procedures for pathogens and floatables in marine recreation waters. This bill also requires EPA to establish a nationwide public health standard for determining when States should notify the public of health risks due to pathogen contaminated waters.

Coastal tourism generates billions of dollars every year for local communities nationwide. More than that, our coastal areas provide immeasurable benefits for millions of Americans who want to build sand castles, cool off in the water, take a walk with that special someone, or just relax. In New Jersey, our very important tourism industry relies primarily on the marine environment. In 1989 over 5.7 million people came to spend time on the Jersey shore and spent over $7.5 billion doing it.

Mr. President, we need new uniform Federal criteria for protecting public health at recreational beaches. Swimming in pathogen contaminated coastal waters can cause a number of illnesses including gastroenteritis, hepatitis, and skin and ear infections. According to the Office of Technology Assessment's 1987 report, Wastes in Marine Environments:

> Bathing in sewage-impacted waters is responsible for relatively high rates of gastrointestinal illness in the United States.

The OTA report concludes that the number of outbreaks of water-borne disease has been steadily increasing in recent decades. It also notes that techniques to measure marine water quality probably underestimate the true number of viable pathogens that are entering the marine environment.

EPA must develop new standards because existing EPA guidelines simply fall short. When states use the Federal guidelines, they decide whether their beach waters are safe for swimming based on monthly averages. Waters may appear safe in the long term, but short-term violations of the public health standard go unrecognized.

The Federal guidelines are not useful for decisionmakers who need to decide whether they should allow people to swim at the beach tomorrow or the coming weekend. Using monthly water quality averages to determine if the beach is safe for swimming is like taking a patient's temperature average over a week to see if she is sick. Her average temperature could be just about normal. But in the meantime, she could be dead.

While some States still use the Federal guidelines, others have no monitoring or water quality notification program at all. A draft survey conducted in the fall of 1989 by the New Jersey Department of Health shows that of 23 States and territories surveyed, 8 have no structured statewide water quality monitoring programs; 11 do not have established criteria for determining bathing beach closures and reopenings due to unsatisfactory microbiological water quality; and, 14 do not proactively disseminate water quality information to the general public.

A recent Recreational Beach Closure Study by the Natural Resources Defense Counsel [NRDC] found that a high bacteria level can cause a beach closure in one State while in another State people may be allowed to swim in the water despite equal health risks. This discrepancy among coastal States threatens public health.

The NRDC report contains other important findings:

High levels of bacteria in coastal waters are responsible for the overwhelming majority of beach closures in the United States.

There were 764 beach closures in 1989 in just 10 States reviewed by NRDC.

The EPA recommended guidelines for waters considered safe would result in 19 out of every 1,000 swimmers becoming sick with gastroenteritis.

The guidelines established by the World Health Organization are more stringent than those of the United States.

New Jersey has been aggressive when it comes to protecting public health at the beach. When there have been signs that our beach waters may be unsafe, we have closed our beaches. Other States haven't acted as swiftly or as honestly. Ironically, New Jersey suffers because it does more to protect public health. In some years, annual losses from beach closures in New Jersey have ranged from $800 million to $1 billion.

Mr. President, I introduced a similar bill last Congress because there are currently no minimum public health standards to protect the public from polluted beach waters, and because the lack of minimum nationwide beach water quality standards presents a threat to public health.

Whether they're in the Carolinas, California, New Jersey, or New York, people across the country have a right to know when the water is and is not safe to swim in. Beachgoers should be able to wade or swim in the surf without the fear of getting sick. Going to the beach should be a healthy and rejuvenating experience. A day at the beach shouldn't be followed by a day with the doctor.

It is clear that we need nationwide beach water quality standards to protect public health from pathogen contaminated waters at beaches. This bill will make sure that need is met.

This bill requires the EPA to establish procedures to monitor coastal waters to detect short-term increases in pathogenicity and to set minimum standards to protect the public from pathogen contaminated beach waters. And it will assure that the public is notified when beach waters exceed the standards. Under my bill, when a standard is violated States are required to notify local officials and post signs at beaches to inform the public of the violation and any associated health risks.

I am also concerned that the bacterial indicators recommended by EPA and those used by many States are inadequate and that they do not tell us about the risks to public health. New Jersey is conducting research to see if it can find better ways to measure public health risks from pathogens in marine waters. But more needs to be done. My bill will allow us to build upon existing efforts and to find better indicators to protect public health.

This legislation provides funding to support implementation of the program through a small set-aside from State grants under section 106 of the Clean Water Act.

Mr. President, the bill I am introducing today was approved by the Environment Committee last year.

Mr. President, I urge my colleagues to join me and Senator BRADLEY in recognizing the importance of protecting public health at our Nation's beaches and cosponsor this legislation.

I ask unanimous consent that a copy 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. 1277

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 "Beaches Environmental Assessment, Closure, and Health Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) as of the year 2000, as much as 80 percent of the Nation's population may be living within 50 miles of the coast;

(5) increased population has contributed to the decline in the environmental quality of coastal waters;

(6) pollution in coastal waters is not restricted by State and other political boundaries;

(7) each coastal State has its own method of testing the quality of its coastal recreation waters, providing varying degrees of protection to the public; and

(8) the development of implementation of procedures for monitoring the quality of coastal recreational waters and the posting of signs at beaches notifying the public during periods when public health and safety limits and conditions are exceeded would enhance public health and safety.

SEC. 3. COASTAL BEACH QUALITY.

Title IV of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"COASTAL BEACH QUALITY

"SEC. 407. (a)(1) Within eighteen months of the date of enactment of this section, each State adjoining any coastal waters shall submit to the Administrator an inventory of coastal recreation waters within such State.

"(2) The inventory required by this subsection shall identify coastal recreation waters within such State, including at a minimum, coastal waters adjacent to public beaches or swimming areas.

"(3) The inventory shall include a statement and description of coastal waters within such State designated for swimming, bathing, or body contact recreation in standards developed pursuant to section 303 of this Act.

"(4) Each State shall provide for public review and comment on the inventory required pursuant to this subsection and, at a minimum, shall provide for at least one public hearing on the draft inventory.

"(5) The Administrator shall approve the inventory prepared pursuant to this section if the Administrator determines that such inventory is consistent with the requirements of this subsection.

"(6) In a case where a State does not submit an inventory pursuant to this subsection, or such inventory is not approved, the Administrator shall designate coastal recreation waters within such State as soon as practicable, but not later than thirty months from the date of enactment of this section. The Administrator shall provide for public review and comment on the designation of coastal recreation waters and shall provide for at least one public hearing within such State.

"(b)(1) Within twenty-four months of the date of enactment of this section, the Administrator shall publish regulations to protect the health and safety of persons swimming, bathing, or engaged in other body contact activities in coastal recreation waters identified pursuant to subsection (a) of this section consistent with paragraph (2) of this subsection.

"(2)(A) Regulations published pursuant to this subsection shall establish, using the best available scientific information, numerical limits for water pollutants determined by the Administrator to pose a threat to public health and safety as a result of swimming, bathing, or other body contact activities. Numerical limits pursuant to this paragraph shall be sufficient to protect public health and safety as a result of any reasonably anticipated exposure to pollutants in coastal recreational waters. At a minimum, the Administrator shall establish a numerical limit for an indicator of the presence of pathogens in water, using the most accurate available indicator.

"(B) In addition to establishing numerical limits for pollutants in water pursuant to subparagraph (A), the Administrator shall establish uniform assessment and monitoring procedures for floatable materials in water and specify the conditions under which the presence of floatable materials shall constitute a threat to public health and safety.

"(3) Regulations published pursuant to this subsection shall specify methods and other requirements for monitoring of coastal recreation waters to determine compliance with numerical limits and conditions established pursuant to paragraph (2) and shall require States to conduct such monitoring. Monitoring requirements established pursuant to this paragraph shall, at a minimum—

"(A) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(B) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(C) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources; and

"(D) specify methods for detecting short-term increases in pollutants identified pursuant to paragraph (2).

"(4)(A) Regulations established pursuant to this subsection shall require States to notify local governments and the public of any violations of numerical limits or conditions established pursuant to paragraph (2). Notification pursuant to this paragraph shall include, at a minimum—

"(i) prompt communication to a designated official of a local government having jurisdiction over land adjoining coastal recreation waters in which a violation pursuant to this paragraph is identified of the occurrence, nature, and extent of such violation;

"(ii) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of violation of public health and safety standards by such waters and the potential risks associated with body contact recreation in such waters; and

"(iii) in the case of any significant violation, notice by general circulation newspaper serving the area in which the violation occurs and a press release to electronic media providing a clear and readily understandable explanation of the violation and the potential risks associated with body contact recreation in such waters.

"(B) Regulations established pursuant to this subsection shall include a definition of 'significant violation' which reflects the degree of violation of numerical limits or conditions established pursuant to paragraph (2), the length of the violation, and the number of people potentially exposed to waters in violation.

"(5) The Administrator shall review and revise regulations published pursuant to this subsection periodically.

"(c) For the purposes of this section the term 'coastal recreational waters' refers to coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes.

"(d)(1) In the case of a State required to develop an inventory and implement regulations under this section, the Administrator shall reserve each fiscal year 5 per centum of the sums allotted and available for obligation to each such State under section 106 of this Act, or $100,000, whichever amount is the greater, for the purposes of conducting or revising the inventory pursuant to subsection (a) of this section and implementing regulations pursuant to subsection (b) of this section.

"(2) In a case where the Administrator determines that a State can effectively implement the program required pursuant to this section for an amount less than 5 per centum of such sums, the Administrator may reserve less than 5 per centum of such funds.

"(3) In a case where the Administrator determines that a State is not complying with regulations issued pursuant to this section, the Administrator shall withhold 5 per centum of the sums allotted and available for obligation under section 106 of this Act, or $100,000, whichever amount is the greater. Sums withheld under this paragraph shall be reallotted among States complying with regulations issued pursuant to this section and States not covered by this section.

"(4) Each State implementing a program under this section shall provide to the Administrator an annual report on the actions taken to implement the program, violations identified, and the number and type of notifications provided pursuant to this section.

"(e) Not later than 5 years after the date of enactment of this section and biennially thereafter, the Administrator shall provide a report to the Congress which shall—

"(1) describe the number and type of violations of numerical limits and conditions and the number and type of notification actions;

"(2) describe the amount and extent of floatable materials in coastal recreation waters and the trends in the amount and location of such materials;

"(3) provide an evaluation of the State activities to implement this section; and

"(4) make recommendations concerning the need for additional numerical limits or conditions pursuant to subparagraph (b)(2) and other actions needed to improve the program pursuant to this section.

"(f)(1) The Administrator, in cooperation with the Under Secretary, shall conduct a study to provide additional information to the current base of knowledge regarding indicators for detecting in coastal recreation waters the presence of bacteria and virus which are harmful to human health.

"(2) The Administrator shall provide a report of the findings of such study to the Congress within 3 years of the date of enactment of this section.

"(g) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency not to exceed $1,000,000 for each of the fiscal years 1992–1997 for the administration of this section.".●

● Mr. BRADLEY. Mr. President, I rise today to join my colleague Senator LAUTENBERG in introducing the Environmental Assessment, Closure, and Health Act of 1991. I am cosponsoring this legislation because it will reduce the chances that Americans are needlessly exposed to unsafe water at the beach. Americans face hazards enough at home and at work. We must do all we can to ensure that citizens are not exposed to unnecessary risks when on vacation as well. This legislation will help achieve that goal.

Vacationers at the beach, enjoying a few days off should not have to wonder whether the water in which they and their families are swimming could make them sick. They should know that the water is safe. This certainty can only come from a rigorous water quality testing program, and a willing-

ness to tell the public when the water may be unsafe. This legislation would ensure that the water testing programs and beach closing rules nationwide are up to the task.

Every summer, I walk the beaches of New Jersey, and I talk to the people I meet about their concerns. New Jerseyans are worried about their beaches and worried about the safety of the waters in which they and their children swim. Yet New Jersey's rules for testing coastal waters are more stringent than currently required by the EPA. When New Jersey's beaches are open, the water is safe. New Jersey has a comprehensive, effective water testing program. New Jersey does not flinch from its responsibilities to close beaches when, as sometimes happens, it may be unsafe to swim.

Some States are not so forthcoming. Some States do not test coastal waters well enough or frequently enough to ensure that residents and visitors are protected from disease. I am proud to say that New Jersey has gone to great lengths to ensure safety.

Mr. President, I think of this legislation as basic consumer information. As things now stand, each State runs its water testing program in a different way. Information on coastal water quality from the different testing programs can be difficult to make sense of or to compare, even for specialists. This legislation, and the companion measure introduced in the House by Representative HUGHES, will ensure that testing programs in coastal areas nationwide are similar. National testing guidelines and national beach closure standards will make readily comparable information on water quality available to beachgoers. For the first time, Americans will be able to determine which beaches have real problems with dangerous pollution, and they will be able to compare beaches to determine which are the safest.

New Jersey beaches have nothing to fear from these comparisons. New Jersey has, I believe, one of the most effective water testing programs in the Nation. New Jersey tests its water on a weekly basis. Many States test their water less frequently, or average the results of repeated tests, thus obscuring short term, intermittent or weather-dependent contamination. In New Jersey we find out about the short term pollution problems, and we take steps to protect people from possible health risks.

Mr. President, some will complain that rigorous testing will do nothing to clean the water. I think that view is shortsighted. To reduce the contamination of our coastal waters we must know the dimensions of the problem. Where are our beach waters unsafe? When do the unsafe conditions occur? Answers to those questions can be used, as they already have been in New Jersey, to track down pollution sources and eliminate them. Furthermore, these naysayers underestimate the power of publicity. If a beach is closed because of polluted water, or if people stop visiting the beach because of reports that the water is unsafe, efforts to find and eliminate the sources of pollution will redouble. And that is what this legislation is really about: cleaning our beaches, eliminating water pollution, and protecting Americans. The stringent testing and pollution guidelines that will result from the passage of this legislation will lead to real improvement in water quality at the beach.•

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, Mr. BURDICK, and Mr. CHAFEE):

S. 1278. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1992, 1993, and 1994, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ENVIRONMENTAL POLICY ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation which would amend and reauthorize the National Environmental Policy Act [NEPA]. It is very similar to S. 1089, which passed the Senate Environment Committee last year. I am pleased that Senators DURENBERGER, BURDICK, and CHAFEE have joined me in introducing this bill.

IMPLEMENTATION OF NEPA

Mr. President, the signing of NEPA into law on January 1, 1970 ushered us into the environmental era. NEPA requires Federal agencies to consider to the fullest extent possible the environmental impacts of their proposed activities in their decisionmaking process. Federal agencies are authorized to modify their activities to mitigate environmental impacts and avoid the impacts altogether by not proceeding with the activity. To achieve this substantive goal, NEPA requires the preparation of environmental impact statements for major Federal actions significantly affecting the quality of the human environment. This ensures that agency officials and the public are made aware of the environmental impacts and that the public has an opportunity to comment on and become involved in the decision making process.

The success of NEPA is indisputable. According to EPA testimony at the Superfund Subcommittee's hearing on S. 1089 in 1989:

> [I]n the nearly 20 years since Congress passed NEPA, this law has, on the whole, been an outstanding success in getting Federal decision-makers to consider and document environmental issues early in the planning stages for Federal projects.

Scores of activities have been modified because of NEPA. The environmental impact assessment process required by NEPA is being used by many foreign nations and more than 15 States have adopted similar assessment and review processes.

AMENDMENTS TO NEPA

The bill I am introducing today amends NEPA to strengthen its requirements to address problems which have arisen since the law was last amended.

REINVIGORATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY

First, the time has come to reinvigorate the Council on Environmental Quality to implement its responsibilities under NEPA. The Council serves a critical role in coordinating Federal agency environmental programs and policies and advising the President on the vast range of environmental issues. No agency or department head can perform these functions on his or her own. It is imperative that the President has an effective staff in the Executive Office which can do the job.

Under President Reagan, the Council budget and staff were reduced significantly and the President failed to use the Council in a meaningful way to coordinate his environmental policy. A number of ideas to accomplish this goal were suggested in Blueprint for the Environment, a report prepared by the environmental community for President Bush.

One idea was to eliminate two of the three members of the Council and have all of the Council's authority vested in the Chairman. The bill adopts this approach.

The bill also adopts the Blueprint recommendation that the President annually transmit to Congress a report in which the President proposes his environmental policies for congressional consideration. The bill also extends and increases authorizations for CEQ through fiscal year 1994.

Finally, the bill will strengthen the authority of the Council in dealing with independent regulatory agencies such as the Federal Energy Regulatory Commission and the Interstate Commerce Commission. The bill makes clear that independent regulatory commissions must comply with the regulations implementing NEPA published by the Council on Environmental Quality.

ALTERNATIVES AND MITIGATION

The bill addresses the consideration of mitigation measures and alternatives in environmental impact statements. It reemphasizes the importance of considering a broad range of alternatives in the environmental impact statement. The bill also requires CEQ to issue guidelines to require Federal agencies to review a sample of their EIS's to determine the effectiveness of mitigation measures.

Finally, the bill requires Federal agencies in the EIS to identify the mitigation measures they propose to adopt. This requirement would reverse a Supreme Court decision in Robertson versus Methow Valley Citizens Council. The failure to include such mitigation

measures in an EIS defeats both the procedural requirements of NEPA to have the public made aware of mitigation measures the Federal agency will adopt and the substantive requirements of NEPA to take actions to eliminate or reduce the environmental impact. This is hardly an onerous requirement. Under CEQ's existing guidelines, agencies already must prepare a record of decision which includes any mitigation measures the agency will implement.

EXTRATERRITORIAL ACTIONS

The bill clarifies that NEPA applies to all Federal actions, not just those in the United States.

In 1979, President Carter issued Executive Order 12114 to require Federal agencies to take certain international environmental considerations into effect. But the Executive order was not issued under the authority of NEPA so the failure of Federal agencies to comply cannot be challenged in Court, and the other requirements of NEPA, particularly the public participation provisions, are not required for these actions. The Executive order also includes numerous exemptions.

As a result, the environmental impact statement process has rarely been used for Federal actions with extraterritorial impacts. According to a CEQ survey, the total number of actions falling within the Executive order between 1985 and late 1987 was 45 or only 15 per year. This practice is inconsistent with the goals and policies of NEPA.

This is clearly unacceptable. Just 18 months ago, the Congress passed and the President signed into law H.R. 2494. Section 521 of that bill requires the preparation and, with certain exceptions, the public disclosure of environmental assessments on proposed multilateral bank projects before the U.S. could vote in favor of the project.

How can we insist that multilateral banks prepare impact assessments on foreign projects when we fail to require our own Federal agencies to prepare environmental impact statements before taking actions outside the U.S. which may have significant environmental impacts? How can we say that the EIS process has been a major success but then fail to apply that process to extraterritorial actions?

So the bill clarifies that NEPA applies to extraterritorial actions.

Last year, the Justice Department sent a letter saying that this provision was unconstitutional because it infringed on the President's authority to conduct foreign policy.

Mr. President, this argument is without merit. First, the President does not have exclusive authority in the area of foreign affairs. Second, Section 101(b) of NEPA specifically provides that Federal agencies are to apply NEPA, "* * * consistent with other essential consideration of national policy * * *". So NEPA itself is sensitive to foreign policy concerns. And the CEQ NEPA regulations provide that compliance with NEPA is not required where it would be inconsistent with other agency statutory authority.

The bill does not modify these existing provisions. And to supplement these provisions, the bill includes six specific exemptions from the EIS requirement for actions taken to protect the national security, actions taken in the course of an armed conflict, strategic intelligence actions, armament transfers, judicial or administrative civil or criminal enforcement action and votes in international conferences and organizations.

This year, I've added another provision to address this foreign policy concern. The bill gives the President authority to make a finding on a case-by-case basis that it is in the paramount interest of the U.S. to exempt extraterritorial major Federal action from the requirement to prepare an environmental impact statement. When the President makes such a determination, the President must notify the Congress within 30 days of making such a finding and include a summary of the findings in the annual report prepared by the Council.

Mr. President, NEPA itself, as well as the amendments I am proposing today, clearly address any concern about the effect this provision could have on our nation's foreign policy.

GLOBAL ENVIRONMENTAL CONCERNS

The bill clarifies that impact statements must address the cumulative impacts of proposed Federal actions on global climate change, depletion of the ozone layer and transboundary pollution.

The EIS process is rarely used with respect to ozone depletion and global warming. In 1988, CEQ prepared a document that would have required Federal agencies to study the impact of their actions on global climate change. Unfortunately, the Reagan administration, in one of its last acts, decided against issuing this guidance. And more than two years into the Bush Administration, this guidance still has not been issued. According to CEQ Chairman Mike Deland in response to a question I asked him at a Veterans Affairs Appropriations Subcommittee hearing, the Council had no plans to finalize this guidance.

How can the Administration claim to be moving to address global warming and other global environmental issues when we fail to require the most basic requirement to consider these issues in environmental impacts statements?

Mr. President, Federal agencies must address these and other global issues in their environmental impact statements. To fail to do so would be to undercut the whole thrust of NEPA. So the bill requires CEQ to issue regulations to ensure that EISs address global environmental issues.

Mr. President, the U.S. must be a leader in addressing international environmental issues. President Bush and EPA Administrator Reilly both have called for the U.S. to be at the forefront of international environmental challenges. We can hardly be in the forefront with our existing positions on the applicability of NEPA to extraterritorial actions and the failure to consider global environmental concerns in environmental impact statements.

JUDICIAL REVIEW

In the Justice Department letter on NEPA, the Department raised the specter of a floodgate of lawsuits being brought by foreigners to stop U.S. actions. The Justice Department proposed that lawsuits be limited to U.S. residents.

During our hearings on NEPA, we will explore this issue and determine whether any limits on judicial review for extraterritorial actions are appropriated.

CONCLUSION

Mr. President, NEPA is a good and necessary law. The bill I am introducing today will strengthen the NEPA process and the Council on Environmental Quality. I urge my colleagues to join in cosponsoring this legislation. And I ask unanimous consent that a copy of the bill be inserted into the RECORD.

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

S. 1278

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

SECTION 1. CLARIFICATION OF NATIONAL ENVIRONMENTAL POLICY.

(a) STATEMENT OF GENERAL ENVIRONMENTAL POLICY.—Section 101(b) of the National Environmental Policy Act (42 U.S.C. 4331(b)) is amended—

(1) in paragraph (5) by striking "and" following the semicolon:

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and"; and

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

"(7) provide world leadershp in ensuring a healthy and stable global environment.".

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) is amended—

(1) by inserting after "major Federal actions" the following: ", including extraterritorial actions (other than those taken to protect the national security of the United States, votes in international conferences and organizations, actions taken in the course of an armed conflict, strategic intelligence actions, armament transfers, or judicial or administrative civil or criminal enforcement actions),";

(2) by striking clause (iii) and inserting in lieu thereof the following:

"(iii) alternatives to the proposed action that achieve the same or similar public purposes, including alternatives that avoid the

adverse environmental effects described in clause (ii) and alternatives that otherwise mitigate those adverse environmental effects,";

(3) by striking "and" at the end of clause (iv);

(4) by adding the following new clauses:

"(vi) measures that will be taken to mitigate adverse environmental effects if the proposed action is implemented, including the reasons for selecting such measures, and

"(vii) a description of how the proposed action or chosen alternative and selected mitigation measures conform to the policies of this Act.";

(5) by inserting "and the public" immediately before the second period; and

(6) by replacing the semicolon at the end with a period and inserting the following: "The President may find, on a case-by-case basis, that it is in the paramount interest of the United States to exempt a major Federal extraterritorial action of a department, agency, Federal independent regulatory commission, or instrumentality in the executive branch from the requirements of this subparagraph. No such exemption shall be granted due to lack of appropriation. The President shall notify the appropriate committees of Congress within 30 days of making a finding to exempt a major Federal extraterritorial action from the requirements of this subparagraph;".

(c) FEDERAL AGENCY ACTION REGARDING GLOBAL ENVIRONMENT.—Section 102(2)(F) of the National Environmental Policy Act (42 U.S.C. 4332(2)(F)) is amended to read as follows:

"(F) recognize the global and long-range character of environmental problems and work vigorously to develop and implement policies, plans, and actions designed to support national and international efforts to enhance the quality of the global environment;".

SEC. 2. REPORTS TO CONGRESS AND PRESIDENT'S STRATEGY FOR ENVIRONMENTAL PROGRESS.

Section 201 of the National Environmental Policy Act (42 U.S.C. 4341) is amended by inserting "(a)" immediately before "The President shall" and by adding the following new subsection:

"(b) Not later than January 31 of each year, the President shall transmit to the Congress a report which—

"(1) describes the President's strategy for implementing the policy and objectives set forth in section 101 during that year;

"(2) describes areas of new or heightened environmental concern;

"(3) describes initiatives to strengthen and improve Federal environmental programs;

"(4) recommends priorities for national and international actions to protect the environment;

"(5) analyzes problems associated with the implementation of this act and the effectiveness of measures specified in detailed statements of Federal agencies under section 102(2)(C) to mitigate the adverse environmental impacts of Federal actions; and

"(6) summarizes implementation of section 102(2)(C) during the previous year, including a summary of Presidential findings for the exemption of any extraterritorial actions from such requirements.".

SEC. 3. ELIMINATION OF COUNCIL MEMBER POSITIONS.

(a) CHAIRMAN OF THE COUNCIL.—Section 202 of the National Environmental Policy Act (42 U.S.C. 4342) is amended—

(1) by striking the second and third sentences and the words "Each Member" in the fourth sentence and inserting in lieu thereof the following: "The Chairman of the Council shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The Chairman"; and

(2) by inserting at the end thereof the following: "All authority for exercising the powers, functions, and duties of the Council under this Act shall be vested in the Chairman.".

(b) COMPENSATION.—Section 206 of the National Environmental Policy Act (42 U.S.C. 4346) is amended to read as follows: "The Chairman of the Council shall serve full time and shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).".

SEC. 4. REGULATORY AUTHORITY AND APPLICABILITY.

Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) to promulgate regulations concerning implementation of the National Environmental Policy Act by all Federal agencies (including Federal independent regulatory commissions). Such regulations shall assure compliance with the statutory requirements of this Act, including the requirement for full consideration of the cumulative environmental impacts of proposed major Federal actions on global climate change, depletion of the ozone layer, transboundary pollution, loss of biological diversity, and other international environmental impacts.".

SEC. 5. REVIEW FUNCTIONS OF THE COUNCIL.

(a) ISSUANCE OF GUIDELINES FOR AGENCY REVIEW OF CERTAIN ENVIRONMENTAL IMPACT STATEMENTS.—Not later than 6 months after the date of the enactment of this Act, the Council on Environmental Quality (hereinafter in this Act referred to as the "Council") shall issue guidelines under which each Federal agency shall review a statistically significant sample of detailed statements prepared by the agency under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) in which measures were specified to mitigate adverse environmental effects.

(b) CONTENT OF GUIDELINES.—Guidelines issued by the Council under subsection (a)—

(1) shall establish the timing and frequency of reviews to be conducted by agencies under the guidelines; and

(2) shall require that Federal agencies examine—

(A) the accuracy of predictions of adverse environmental effects which were included in such statements, including predictions of impacts on fish and wildlife populations and habitats;

(B) the extent to which measures specified in statements under section 102(2)(C) of the National Environmental Policy Act to mitigate adverse environmental effects were implemented; and

(C) the effectiveness of those implemented mitigation measures.

(c) AGENCY REVIEWS.—Each Federal agency shall carry out reviews in accordance with guidelines issued by the Council under this section, and shall promptly submit to the Council the results of those reviews.

(d) SUMMARY OF RESULTS IN ANNUAL COUNCIL REPORT.—The Council shall include a summary of the results of the reviews carried out by Federal agencies under this section in the annual report of the Council transmitted to the Congress under section 201 of the National Environmental Policy Act (42 U.S.C. 4341).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended by adding at the end thereof the following:

"(e) $3,000,000 for fiscal year 1992, and $3,500,000 for each of the fiscal years 1993 and 1994."•

• Mr. BURDICK. Mr. President, I am pleased to be an original cosponsor of legislation to reauthorize funding for the Council on Environmental Quality and to clarify the very important authorities of the National Environmental Policy Act [NEPA]. I commend Senator LAUTENBERG who chairs the Subcommittee on Superfund, Ocean and Water Protection, for developing and introducing this legislation and for his commitment to overseeing effective NEPA implementation.

NEPA is notable for its clear and succinct statement of purpose and authorities. At the core of NEPA is the premise that thoughtful planning and wise decisionmaking will result in beneficial use, conservation, and preservation of our natural resources for future generations. The process set forth for the assessment of environmental impacts from major Federal actions, has been widely adopted by the States and countries throughout the world. NEPA also created the Council on Environmental Quality, separate and distinct from any other Federal agency and department, to advise the President on environmental policy and to oversee implementation of the Act.

The legislation we are introducing today largely builds on the experience we've had through 20 years of NEPA implementation and emphasizes the Federal Government's responsibility to take into account the global impacts of its actions. It also restructures CEQ, by eliminating two of the three Council member positions. This will enable the chairman to carry out his responsibilities more efficiently and responds to proposals by the administration and environmental organizations.

This measure is similar to legislation considered and reported by the Environment and Public Works Committee last year. Senator LAUTENBERG has been attentive to concerns that were expressed about that legislation and has incorporated appropriate modifications in the bill that is being introduced today.

Again, I commend my colleague from New Jersey, Senator LAUTENBERG, for his leadership on this issue and look forward to working with him as the Committee on Environment and Public Works considers the legislation.•

By Mr. CRANSTON (by request):

S. 1279. A bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs

for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

CLARIFICATION OF ELIGIBILITY OF VETERAN'S BENEFITS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1279, a bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with certain medical and other benefits and services. The Secretary of Veterans Affairs submitted this legislation by letter dated May 31, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 31, 1991, transmittal letter and enclosed bill analysis.

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

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 601(6)(A)(i) is amended by striking "and (except under the conditions described in section 612(f)(1)(A)(i) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances," and inserting in lieu thereof "medical equipment and prosthetic appliances,".

SEC. 3. Section 614 is amended to read as follows:

§614. Medical equipment and prosthetic appliances; aids for the blind and hearing impaired

(a) The Secretary shall furnish needed fitting and training in the use of any medical equipment or prosthetic appliance (or seeing-eye or guide dog) that the Department furnishes to a veteran. The training (including institutional training) may be furnished in a Departmental facility, or by contract, and may include travel and incidental expenses (under the provisions of section 111 of this title) to and from the veterans home and the medical center or training institution.

(b) The Secretary may furnish any veteran eligible for medical services with special clothing made necessary by the wearing of a prosthetic appliance.

(c) The Secretary may repair or replace any medical equipment or prosthetic appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.

(d) The Secretary may provide seeing-eye or guide dogs trained for the aid of the blind to any veteran entitled to disability compensation, and may provide such veteran with devices for assisting in overcoming the handicap of blindness.

(e) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on acount of hearing impairment.

SEC. 4. Section 617 is amended:

(a) by revising the heading to read as follows:

"§617. Home health services"

(b) by striking subsections (b) and (c);

(c) by striking "(1)" after "(a)" in subsection (a);

(d) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c); and

(e) in subsection (b) as redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

SEC. 5. Section 619 is struck.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 31, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitation, and prosthetic devices, appliances, equipment and services." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The VA's authority to furnish disabled veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment and services is found in several different provisions in title 38, United States Code. Congress enacted those provisions incrementally over many years without always considering whether the new provisions were consistent with, or duplicative of existing provisions. This draft bill would eliminate inconsistency and overlapping authority in the Code, clarify more precisely which equipment and services veterans may receive for VA, organize related provisons in a more coherent fashion, and simplify the language used in those provisions.

AMENDMENT OF 38 U.S.C. §601(6)

The draft bill would first simplify the definition of the term "medical services" to state simply that it includes "medical equipment and prosthetic appliances." The term medical services is now defined to include "wheelchairs, artificial limbs, trusses, and similar appliances." The words "artificial limbs" and "trusses" in the definition originated in laws dating back at least to 1876, and the word "wheelchairs" appeared in the law at least as early as 1924. Those terms certainly do not encompass all of the different items of medical equipment, and prosthetic devices that VA now furnishes to disabled veterans. VA furnishes equipment and devices on the basis that the items are appliances similar to wheelchairs, artificial limbs, or trusses. To modernize the language of the law, the draft bill would use the more generic words "medical equipment and prosthetic appliances," which would include, but not be limited to wheelchairs, artificial limbs, and invalid lifts.

The draft bill would also delete from 38 U.S.C. §601(6) language which precludes VA from providing veterans with medical equipment and prosthetic devices as part of outpatient care furnished in preparation for, or to obviate the need for hospital care. The limiting language had its origins in a statutory provision enacted in 1962, when the law authorized VA to furnish nonservice-connected veterans with outpatient care only when necessary to prepare the veteran for inpatient care, or as post-hospital care. Congress apparently added the language to prohibit VA from furnishing equipment and devices to veterans receiving outpatient care in preparation for a scheduled inpatient admission, a quite reasonable restriction. However, in 1973 Congress expanded eligibility to permit the Department to furnish nonservice-connected veterans with outpatient care to "obviate" the need for inpatient care, but did not delete the old restriction.

Continuing the restriction prohibits VA from furnishing veterans with relatively inexpensive medical equipment or prosthetic devices which could alleviate the need for expensive hospital care. For example, a paralyzed wheelchair bound veteran prone to decubitus ulcers cannot be provided an appropriate cushion to relieve pressure areas which, if not provided, would likely result in costly hospitalization for treatment of the ulcers. The draft bill would not change existing language in the law which limits VA to providing only necessary care. That language would control any potential misuse of the broadened authority this draft bill would provide. Thus, the bill would not authorize VA to provide many of the commonly requested devices such as hearing aids, eyeglasses, and automobile adaptive equipment, because those items would not be necessary to prepare a veteran for, or obviate the need for hospital care.

Finally, section 601(6) now defines the term "medical services" as including "special clothing made necessary by the wearing of prosthetic applicance." The draft bill would strike that provision from section 601(6), but amend 38 U.S.C. §614 to specifically authorize VA to furnish veterans with such clothing. As discussed below, the draft bill would amend section 614 to consolidate in that one section the various authorities from VA to furnish veterans with certain specialized items. It would be appropriate to directly authorize the provision of special clothing in that section, rather than indirectly authorize it by including the clothing in the definition of "medical services."

AMENDMENT OF 38 U.S.C. §617

The draft bill would make two changes in section 617(b). First, it would strike subsection (b) in its entirety because it is duplicative of authority which exists elsewhere in the law. Section 617(b) authorizes the Secretary to provide "invalid lifts, or any type of therapeutic or rehabilitative device, as well as medical equipment and supplies" to two categories of veterans: very seriously disabled service-connected veterans receiving compensation under 38 U.S.C. §614(l)–(p), and pensioners receiving increased benefits

because they are in need of regular aid and attendance.

Congress enacted the provisions of section 617(b) at a time when the benefits authorized by the subsection were unavailable to the two groups of veterans. Subsequently, Congress liberalized 38 U.S.C. §612 to authorize VA to furnish the two categories of veterans described in section 617(b) with all needed medical services (including invalid lifts, wheelchairs, trusses, and artificial limbs), rendering the latter subsection superfluous. The two groups of veterans are eligible for equipment and therapeutic or rehabilitative devices (including, but not limited to invalid lifts, wheelchairs, and artificial limbs) under both section 617(b) and section 612. The draft bill would simply delete subsection (b).

Section 617(c) authorizes the Secretary to furnish devices to overcome the handicap of deafness to any hearing impaired veteran who is profoundly deaf, and entitled to compensation for the hearing impairment. The draft bill would move the subsection from section 617 to section 614. No substantive change would be made. As was the case with the special clothing benefit discussed above, the proposed amendment would foster consolidation into one provision, all of the various authorities for VA to furnish veterans with specialized types of devices and equipment.

The provisions now in section 617(a) authorize the Secretary to furnish veterans with home health services. Those provisions would remain in section 617 unchanged. Thus, section 617 would address only one subject, home health services.

AMENDMENT OF 38 U.S.C. §619

Section 619 authorizes the Secretary to repair or replace artificial limbs, braces, eyeglasses, and similar appliances which become damaged or destroyed by a fall or other accident caused by a compensable service-connected disability. The draft bill would make section 619 a subsection of section 614. Again, the change would be made as part of the consolidation of various provisions in section 614. No substantive change would be made in the language now included in section 619.

AMENDMENT OF 38 U.S.C. §614

Section 614 now includes two separate provisions. Subsection (a) authorizes the Secretary to furnish veterans with fitting and training in the use of prosthetic appliances. Subsection (b) authorizes the Secretary to furnish service-connected veterans with seeing eye or guide dogs, and other equipment and devices for aiding those veterans in overcoming the handicap of blindness. The draft bill would revise the language of subsection (a) to clarify that training and fitting may be provided for any medical equipment that VA furnishes, not just for prosthetic appliances. The bill would also make minor nonsubstantive wording changes in both subsections to achieve greater clarity.

Finally, as discussed above, the bill would add three new subsections to section 614 to consolidate provisions now in other sections of the Code. A new subsection (b) would authorize the Secretary to furnish special clothing made necessary by the wearing of a prosthetic appliance, a provision now included in section 601(6). A new subsection (c) would authorize the Secretary to repair or replace any medical equipment or prosthetic appliance damaged by a fall or other accident caused by a service-connected disability, a provision now included in section 619. A new subsection (e) would authorize the Secretary to furnish hearing impaired veterans with devices for overcoming the handicap of deafness, a provision now included in section 617(c).

The amendment to 38 U.S.C. §601(6) to eliminate the restriction on furnishing equipment and appliances to nonservice-connected veterans to obviate the need for hospital care would result in an increase in the cost of providing prosthetic services. It would be offset by reduced hospital admissions. Therefore, we estimate that there will be no increase in costs from the proposal. There would be no cost implications associated with other changes made by the bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF PROPOSED BILL

Section 2. Section 2 would amend 38 U.S.C. §601(6)(A)(i), which defines the term "medical services." The term is now defined as including "wheelchairs, artificial limbs, trusses, and similar appliances." VA provides most of the prosthetic devices and medical equipment that VA furnishes to veterans under the words "similar appliances". Section 2 of the bill would strike that quoted language and substitute the clearer, simpler, and more up-to-date words "medical equipment and prosthetic appliances." Under the new definition, VA would continue to furnish equipment including, but not limited to wheelchairs, artificial limbs, trusses, and invalid lifts.

The definition of "medical services" now also includes "special clothing made necessary by the wearing of prosthetic appliances". The draft bill would move that language from section 601(6) to section 614. Section 2 of the bill would strike the language from section 601(6), and section 3 (discussed below) would add a new subsection to 38 U.S.C. §614 to directly authorize the Secretary to furnish such special clothing.

Finally, section 2 of the bill would delete language in section 601(6) which prohibits VA from furnishing medical equipment and prosthetic appliances to nonservice-connected veterans on an outpatient basis to obviate the need for hospital care. That restriction in the law dates from 1962, when the law authorized VA to provide nonservice-connected veterans with outpatient care only to prepare them for hospital care, or if needed following a period of hospitalization. In 1973, Congress authorized outpatient care for these veterans to obviate the need for hospital care, but neglected to strike the old limiting language from the law. As a result, VA cannot provide veterans with relatively inexpensive medical equipment or prosthetic devices which would avoid the need for much more expensive hospital care. Section 2 of the draft bill would rectify that problem.

Section 3. Section 3 would amend 38 U.S.C. §614, to make it the principal section of the Code concerned with medical equipment and prosthetic appliances. It would consolidate in that section various "special authorities" now included in other sections which are concerned with prosthetic appliances and medical equipment. Section 3 would also update and simplify the existing language of section 614.

Subsection (a) of section 614 now authorizes the Secretary to furnish fitting and training in the use of a prosthetic appliance furnished by VA. Under the rubric of that language, VA furnishes fitting and training in the use of all medical equipment it furnishes to veterans. As amended by section 3 of the draft bill, section 614(a) would expressly require the Secretary to furnish fitting and training in the use of any medical equipment, prosthetic appliance, or seeing-eye or guide dog that the Department furnishes to a veteran. Section 3 of the draft bill would not change the authority now in section 614(a) to furnish the training (including institutional training) either in a VA facility, or a contract facility. It would also continue to authorize VA to pay for the travel expenses associated with such training in accordance with the provisions of 38 U.S.C. §111, the basic authority to pay for "beneficiary travel."

The draft bill would create a new subsection (b) in section 614 to authorize the Secretary to furnish any veteran eligible for medical services with special clothing made necessary by the wearing of a prosthetic appliance. Under existing law, the definition of the term "medical services" in section 601(6) includes such special clothing, and the Secretary furnishes the clothing under the general authority in section 612 to provide veterans with medical services. The bill simply moves the authority to section 614 to consolidate in that section all of the various authorities in the Code that are associated with medical equipment and prosthetic appliances.

The draft bill would also create a new subsection (c) in section 614 to authorize the Secretary to repair or replace any medical equipment or prosthetic appliance belonging to a veteran which is damaged or destroyed by a fall or other accident caused by a service-connected disability for which the veteran is receiving (or but for the receipt of retirement pay, would be receiving) disability compensation. This authority is now in 38 U.S.C. §619. Section 5 of the draft bill (discussed below) strikes section 619. The new section 614(c) differs from existing section 619 only in that the words "medical equipment or prosthetic appliance" are substituted for the words "artificial limb, truss, brace, hearing aid, spectacles, or similar appliance."

The draft bill would create a new subsection (d) in section 614 which is substantively the same as the existing section 614(b). It authorizes the Secretary to furnish service-connected veterans with guide dogs and other aids to assist in overcoming the handicap of blindness. Language in the existing subsection (b), which authorizes the Secretary to pay for travel expenses associated with adjusting to a guide dog, is deleted from the new subsection (d), because that benefit is provided in the new section 614(a).

Finally, section 3 of the draft bill would create a new subsection (e) in section 614 to authorize the Secretary to furnish a hearing impaired veteran with devices for assisting in overcoming the handicap of deafness, provided the veteran is profoundly deaf and entitled to compensation on account of hearing impairment. This authority is now in 38 U.S.C. §617(c). Section 4 of the draft bill (discussed below) strikes section 617(c). The bill simply moves the authority to section 614 to consolidate in that section all of the various authorities in the Code that are associated with medical equipment and prosthetic appliances.

Section 4. Section 4 would amend 38 U.S.C. §617 to delete both subsection (b) and subsection (c) of that section. Section 617(b) authorizes the Secretary to provide invalid lifts, and various other types of medical equipment and supplies to two categories of veterans, services-connected veterans receiv-

ing compensation under 38 U.S.C. §614(1)-(p), and pensioners receiving increased benefits because they are in need of regular aid and attendance. Congress enacted section 617(b) at a time when the benefits authorized by the subsection were unavailable to the two groups of veterans. Subsequently, Congress amended 38 U.S.C. §612 to authorize VA to furnish all needed medical services to the two categories of veterans described in section 617(b). Thus, the authority in subsection (b) duplicates authority in section 612 to provide medical services as defined in section 601(6). The two groups of veterans are eligible for equipment and therapeutic or rehabilitative devices (including, but not limited to invalid lifts, wheelchairs, and artificial limbs) under both section 617(b) and section 612. The draft bill would delete the duplicative authority.

Section 4 of the draft bill would also strike subsection (c) of section 617, which authorizes the Secretary to furnish hearing impaired veterans with devices to assist in overcoming the handicap of deafness. The subsection is not needed because the authority would be consolidated in 38 U.S.C. §614. Section 3 of the draft bill (discussed above) adds a new subsection (e) to section 614 to authorize precisely the same benefit as is now authorized in section 617(c).

Section 5. Section 5 would strike section 619 from the Code. Section 619 authorizes the Secretary to repair or replace artifical limbs, braces, eyeglasses, and similar appliances which become damaged or destroyed by a fall or other accident caused by a compensable service/connected disability. The section is not needed because the authority for the benefit would be consolidated in 38 U.S.C. §614. Section 3 of the draft bill (discussed above) adds a new subsection (c) to section 614 to authorize the same benefit as is now authorized in section 619.•

By Mr. CRANSTON (by request):

S. 1280. A bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

VETERANS' AFFAIRS CANTEEN IMPROVEMENT ACT

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1280, a bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service. The Secretary of Veterans Affairs submitted this legislation by letter dated May 31, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 31, 1991, transmittal letter and bill analysis.

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

S. 1280

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4205 of title 38, United States Code, is amended by adding the following sentence at the end thereof; "As determined by the Secretary, monies in the revolving fund which are not required for current operations, may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States."

ANALYSIS OF DRAFT BILL

The draft bill would amend section 4205 of title 38, United States Code, to authorize the VA to designate monies in the Veterans Canteen Service Revolving Fund which are not required for current operations and authorize the Secretary of the Treasury to invest and reinvest such monies in United States Securities or in any obligations guaranteed as to both principal and interest by the United States. The amendment is necessary to allow the Canteen Service to participate in programs run by the Treasury to allow Federal agencies with funds available for investment to maximize their earnings from United States securities. The law would clarify previous investment authority provided the VA under Public Law 100-322 and continue reforms of the Service's operations to make it more efficient.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 31, 1991.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: We are transmitting herewith a draft bill "To amend title 38, United States Code, to improve the management of the Veterans Canteen Service." We request that the bill be referred to the appropriate committee for prompt consideration.

In 1946, Congress established the Veterans Canteen Service (the Service) in the VA for the primary purpose of providing veterans in VA medical facilities, "at reasonable prices, articles of merchandise and services essential to their comfort and well-being." Congress then made initial appropriations which, with the Service's revenues, were deposited into a Revolving Fund in the United States Treasury to support its activities. The proposed bill would significantly improve the management of the Service by authorizing the Secretary to invest and reinvest monies in the Revolving Fund which are not necessary for current operations in United States securities.

In this regard, the draft bill would continue reforms begun in 1988 when Congress enacted Public Law 100-322, to allow the Service to place Revolving Fund monies in "interest bearing accounts." That law contained several other major reforms of the Service's operating authority, designed to improve its management and encourage it to operate in a more business-like manner. With the consent of the Secretary of the Treasury, the Service has used that authority to place funds in accounts in the Treasury which hold United States securities. The interest earned on these securities is used to support the Service's operations.

However, absent explicit statutory investment authority, the Secretary of the Treasury has declined to allow the Service to participate in the "Federal Investment Counseling Program," under which Treasury officials provide a full-range of advisory services designed to assure the greatest possible return on funds invested by a participating agency in Federal securities. We believe the Service's participation in the Treasury's program will significantly increase the revenues which its funds earn. The proposed legislation will provide the explicit statutory investment authority necessary to participate in the Treasury program as, we believe, was intended by Public Law 100-322.

Funds earned from investments in United States securities would contribute to the Service's Revolving Fund and not require any additional expenditures by the Government.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. Offsetting receipts in this bill would equal the increase in direct spending, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the PAYGO requirement of OBRA.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,

EDWARD J. DERWINSKI.•

By Mr. RIEGLE:

S. 1281. A bill to provide for immediate delivery of United States Savings Bonds available to the public at the point of purchase; to the Committee on Finance.

UNITED STATES SAVINGS BOND AVAILABILITY ACT

• Mr. RIEGLE. Mr. President, it is no secret that our savings rate in America is low. It is much lower than the rate in many of the countries we compete against in the world economy. If we don't raise our savings rate, many predict that we will not have the investment dollars needed to improve productivity and efficiency. We need to make every effort to raise our savings rate. That is why a recent decision by the Department of the Treasury is so bewildering.

In the name of efficiency, Americans can no longer walk into a financial institution or post office and purchase a U.S. savings bond on the spot. Under a program called the Regional Delivery System, now being implemented by the Treasury Department, a buyer of a savings bond must fill out a request application and wait 3 weeks for the savings bond to arrive. If it is for a gift, the bank can issue a certificate—not the savings bond—that can be placed in an envelope. If the purchaser is "lucky" enough to be located in a Federal Reserve center city or near one of the 25 branches nationwide, then that person can run down to the center or branch and purchase a U.S. savings bond over the counter. To sweeten the deal, the interest begins accruing on the eventu-

ally delivered bond as of the first of the month.

There is just one thing wrong with this supposedly well-intentioned program—many people will no longer endure the hassle now being imposed by the Treasury. People will stop purchasing savings bonds! We will have destroyed a basic key to our savings system in America.

When you are very young, you begin to save by putting into a piggy bank. One of the gifts that is most often given to a new baby or at the first birthday is a piggy bank. Children are then taught the benefits of saving. Parents, grandparents, and relatives often give a child a coin to put into their piggy bank. It may sound a little hokey here on the floor of the Senate, but a piggy bank represents the beginning of a lifetime of saving for the future. And U.S. savings bonds have been a vital step in the saving process.

At first, a child might receive a U.S. savings bond as a gift. It is a unique gift to a child. It represents something important and it cannot be instantly used. When it is eventually cashed in, it has increased in value because of something called "interest." A child now has learned the value of deferring immediate gratification and has also learned the value of interest.

When that child begins to earn money by mowing lawns, delivering newspapers, babysitting, or some other chore, the child is taught that part of the money earned should be set aside for a "rainy day," a new bicycle, holiday gifts, or college. And where do most of these kids turn to? They turn to U.S. savings bonds. What a great idea! Our kids now learn not only the value of savings and interest, they also put their money into the future of America.

So why throw a roadblock in such a wonderful way of teaching the savings process to the youth of America? We want our kids to save and buy U.S. savings bonds. We need to keep the system of purchase as easy as possible. We need to keep the amount of the bonds small so that kids can buy them and we must make sure that you can walk into a bank in any town—whether New York City; Saginaw, MI, or Whitefish, MT—and buy a U.S. savings bond on the spot and walk out with the bond in hand.

We need to bring Americans closer to their Government rather than driving a further wedge into the gap that exists. The legislation I am introducing today keeps this on the purchase of U.S. savings bonds a part of our savings system in America.

Who doesn't remember the fable of "The Ant and the Grasshopper"? The ant worked hard to store food for the winter while the grasshopper played. When the fall came and the grasshopper was hungry, the ant inquires, "and what were you doing all summer?" The grasshopper answers, "I had a right jolly time playing my fiddle in the sun." The ant retorts back, "Ho, ho, you did. Well, those that play all summer and don't work deserve to starve in winter. Be gone."

This fable and many other stories are used at home and in school to stress on our children the importance of work and saving. These stories portray why we need to maintain on the spot purchase of U.S. savings bonds.

Mr. President, I ask unanimous consent that the text of my bill appear in the RECORD immediately following my remarks.

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

S. 1281

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 "United States Savings Bond Availability Act of 1991".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that United States Treasury bonds remain readily available for purchase by the Public.

SEC. 3. UNITED STATES SAVINGS BOND AVAILABILITY.

The Secretary of the Treasury shall make an adequate supply of United States Savings Bonds available to an issuing agent, qualified under regulations established by the Secretary of the Treasury to issue United States Savings Bonds, for immediate, over-the-counter delivery to the public upon demand at the point of purchase.•

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1282. A bill to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association; to enhance the safety and soundness of the Farm Credit System; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT

• Mr. RIEGLE. Mr. President, last fall's Omnibus Budget Reconciliation Act [OBRA] required the Treasury Department to recommend legislation to ensure the safety and soundness of Government sponsored enterprises [GSE's]. Senator GARN and I are introducing that legislation today by request.

Government sponsored enterprises include the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Student Loan Marketing Association, and the Federal Farm Credit System. They were created by Congress to facilitate access to credit by homebuyers, students, and farmers. And they have done an excellent job, aiding millions of families. But, though none are in any imminent danger, they potentially pose substantial risks to taxpayers, over which the Government has little control.

While GSE's are privately owned, and their liabilities are not explicitly guaranteed by the Government, few doubt that we would not back them up if they were in danger of failing. Their congressional charters, exemptions from securities laws, lines of credit with the Treasury, tax exemptions, and their immense importance to the critical markets they serve leave little question about the implicit Government guarantee which the financial markets assume stands behind them. Actions to support the Farm Credit System in 1987 and the deposit insurance funds have reinforced that assumption.

These agencies currently have over a trillion dollars in debt outstanding for which we are potentially liable. But, as documented in studies by the Treasury, the GAO, the CBO, and the Administrative Conference, we have little control over the safety with which they conduct their operations. All of these studies have recommended substantial changes in Federal supervision and capital standards for GSE's.

The Senate recognized the importance of this issue last October by including in OBRA the sense of the Senate that legislation should be reported to the floor by September 15, this year. That will be a tough deadline to meet. Our committee's first priorities this year must be banking reform and RTC funding, and the Treasury delayed our start on this legislation by sending up their proposal a month later than OBRA required. But it is my intention—notwithstanding the committee's hearing agenda, the lateness of the administration's proposal and its complexity—to attempt to meet our deadline if at all possible.

The Banking Committee has been studying this problem for 2 years. We placed requirements for the first studies by Treasury and GAO in the FIRREA thrift legislation and have since held 5 hearings on GSE's. Our interest stems not only from the fact that three of the five GSE's dealt with in this legislation are housing agencies, but also from the roles of each of them as financial institutions and issuers of Federal debt. Other committees have important interests as well, and likely will be working on legislation of their own. We hope to work closely with them, so that the final result shows some consistency in the treatment of GSE's, at a minimum, or as the GAO proposes, puts all GSE's under a single regulator.

Some may ask why we need to do this now, if GSE's pose little immediate risk. But I think Congress was wise to encourage legislation this year, when there is no crisis at hand. If we've learned anything from the series of

thrift and bank failures we have had, we've learned that the cost of acting after a problem develops is great. If we act now, while there is no crisis—but when all of these studies tell us we are unnecessarily risking one in the future—we may avoid a large cost later on.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 1282

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991".

(b) TABLE OF CONTENTS.—

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

Sec. 101. Findings.
Sec. 102. Definitions.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

Sec. 111. Establishment of the Office of Government-Sponsored Enterprise Financial Oversight.
Sec. 112. Director of the Office of Government-Sponsored Enterprise Financial Oversight.
Sec. 113. Amendment to section 5314 of title 5, United States Code.
Sec. 114. Authority of the Director.
Sec. 115. Personnel.
Sec. 116. Regulations and orders.
Sec. 117. Amendments to Federal National Mortgage Association Charter Act.
Sec. 118. Amendments to Federal Home Loan Mortgage Corporation Act.
Sec. 119. Final reports.
Sec. 120. Funding.

Subtitle B—Capital Levels and Special Enforcement Powers

Sec. 131. Capital adequacy and prompt corrective action.
Sec. 132. Safe harbor.
Sec. 133. Reports to Director.
Sec. 134. Examinations.

Subtitle C—General Enforcement Powers

Sec. 141. Cease-and-desist proceedings.
Sec. 142. Temporary cease-and-desist orders.
Sec. 143. Removal and prohibition authority.
Sec. 144. Suspension or removal of director or executive officer charged with felony.
Sec. 145. Hearings and judicial review.
Sec. 146. Jurisdiction and enforcement.
Sec. 147. Civil money penalty.
Sec. 148. Notice under this subtitle after separation from service.
Sec. 149. Notice of service.
Sec. 150. Subpoena power, etc.
Sec. 151. Public disclosure of final orders and agreements.

Subtitle D—Conservatorship

Sec. 161. Appointment of conservator.
Sec. 162. Examinations.
Sec. 163. Termination of conservatorship.
Sec. 164. Conservator; powers and duties.
Sec. 165. Liability protection.
Sec. 166. Powers of officers not affected.
Sec. 167. Rules and regulations.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

Sec. 201. Amendment to the Federal Home Loan Bank Act.

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE STUDENT LOAN MARKETING ASSOCIATION

Sec. 301. Findings.
Sec. 302. Definitions.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

Sec. 311. Annual Reports.
Sec. 312. Funding.
Sec. 313. Amendments to the Higher Education Act of 1965.

Subtitle B—Capital Levels and Special Enforcement Powers

Sec. 321. Capital Adequacy and Prompt Corrective Action.
Sec. 322. Reports To Secretary.
Sec. 323. Examinations.
Sec. 324. Safe Harbor.

Subtitle C—General Enforcement Powers

Sec. 331. Cease-and-Desist Proceedings.
Sec. 332. Temporary Cease-and-Desist Proceedings.
Sec. 333. Removal and Prohibition Authority.
Sec. 334. Suspension or Removal of Director or Executive Officer Charged with Felony.
Sec. 335. Hearings and Judicial Review.
Sec. 336. Jurisdiction and Enforcement.
Sec. 337. Civil Money Penalty.
Sec. 338. Notice under this Section after Separation from Service.
Sec. 339. Notice of Service.
Sec. 340. Subpoena Power, Etc.
Sec. 341. Public Disclosure of Final Orders and Agreements.

Subtitle D—Conservatorship

Sec. 351. Appointment of Conservator.
Sec. 352. Examinations.
Sec. 353. Termination of Conservatorship.
Sec. 354. Conservator; Powers and Duties.
Sec. 355. Liability Protection.
Sec. 356. Powers of Officers not Affected.
Sec. 357. Rules and Regulations.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

Sec. 401. Jurisdiction.

TITLE V—FARM CREDIT SYSTEM

Subtitle A—Improvements to Farm Credit System Safety and Soundness

Sec. 501. Clarification of Funding Corporation Authority.
Sec. 502. Access to Association Capital.
Sec. 503. Enhanced Supervision Over Federal Agricultural Mortgage Corporation.

Subtitle B—Farm Credit System Insurance Corporation

Sec. 511. Board of Directors.
Sec. 512. Risk-Based Insurance Premiums.
Sec. 513. Statutory Successor to Assistance Board Agreements.

Subtitle C—Farm Credit System Consolidation

Sec. 521. Consolidation of District Banks.
Sec. 522. Terms of Consolidation.

Subtitle D—Repayment of FAC Debt Obligation

Sec. 531. Repayment of Treasury Interest Payments.
Sec. 532. Capital Preservation Assistance.

Subtitle E—Farm Credit System Bank and Institution Management

Sec. 541. Boards of Directors.

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

SEC. 101. FINDINGS.

The Congress finds that—

(a) The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have important public missions, as reflected in their Federal charters;

(b) Because the continued ability of these enterprises to accomplish their public missions is important to the health of the United States economy, more effective Government regulation is needed to provide sustained outside discipline and thereby to reduce the risk of failure;

(c) The regulatory framework of these enterprises should embody the following principles—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of these enterprises;

(2) the regulator should have sufficient stature to maintain independence from the enterprises and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of the enterprises; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules that it establishes; and

(d) While the Federal Housing Finance Board has the regulatory authorities necessary to regulate effectively the financial safety and soundness of the Federal Home Loan Banks' operations, its statute should be amended to clarify that financial safety and soundness is the primary mission of the agency.

SEC. 102. DEFINITIONS.

As used in this title—

(a) CAPITAL.—The term "capital" means, as determined in accordance with generally accepted accounting principles, the sum of—

(1) the par value of outstanding common stock;

(2) the par value of outstanding preferred stock;

(3) paid-in capital; and

(4) retained earnings.

(b) CAPITAL DISTRIBUTION.—The term "capital distribution" means—

(1) a dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of either enterprise, except a dividend consisting only of shares of the enterprise;

(2) a payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition of such shares; or

(3) a transaction that the Director determines by order or regulation to be in substance the distribution of capital.

(c) COMPENSATION.—The term "compensation" means any payment of money or provi-

sion of any other thing of current or potential value in connection with employment.

(d) DIRECTOR.—The term "Director" means the Director of the Office of Government-Sponsored Enterprise Financial Oversight.

(e) ENTERPRISE.—The term "enterprise" means—

(1) the Federal National Mortgage Association and any affiliate thereof; and

(2) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(f) EXECUTIVE OFFICER.—The term "executive officer" of an enterprise means—

(1) the chief executive officer;

(2) the chief financial officer; or

(3) any other person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the enterprise whether or not the person—

(A) has an official title;

(B) has a title designating the person an assistant; or

(C) is serving without compensation.

(g) OFFICE.—The term "Office" means the Office of Government-Sponsored Enterprise Financial Oversight.

(h) NEW PROGRAM.—The term "new program" of an enterprise means any purchase, servicing, sale, swap, loan on the security of, or other dealing in mortgages or mortgage-related instruments which differs significantly and materially from existing programs of the enterprise in terms of type of property, term of mortgage, nature of mortgage instrument, type or amount of mortgage insurance, nature of lien, form of securitization, or other significant matter.

(i) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

SEC. 111. ESTABLISHMENT OF THE OFFICE OF GOVERNMENT-SPONSORED ENTERPRISE FINANCIAL OVERSIGHT.

Effective January 1, 1992, there shall be established in the Department of Housing and Urban Development the Office of Government-Sponsored Enterprise Financial Oversight which shall be a bureau within the Department.

SEC. 112. DIRECTOR OF THE OFFICE OF GOVERNMENT-SPONSORED ENTERPRISE FINANCIAL OVERSIGHT.

(a) IN GENERAL.—The Office shall have a Director who shall be the head of the Office.

(b) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(c) TERM.—The Director shall be appointed for a term of five years and shall serve at the pleasure of the President.

(d) VACANCY.—A vacancy in the position of Director which occurs before expiration of the term for which a Director was appointed shall be filled in the manner established in subsection (b), and the Director appointed to fill such vacancy shall be appointed only for the remainder of said term.

(e) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

(f) ACTING DIRECTOR.—

(1) Subject to subsection (d)—

(A) the Director may designate who shall act as Director if the Director dies, resigns, or is sick or absent; and

(B) in the event that the Director is unable to make such a designation because of the Director's death, disability, resignation, or removal, the Secretary shall designate an Acting Director.

(2) An Acting Director designated under paragraph (1) shall possess the power to perform the duties vested in the Director.

SEC. 113. AMENDMENT TO SECTION 5314 OF TITLE 5, UNITED STATES CODE.

Section 5314 of title 5, United States Code, is amended by inserting at the end "Director of the Office of Government-Sponsored Enterprise Financial Oversight.".

SEC. 114. AUTHORITY OF THE DIRECTOR.

(a) EXCLUSIVE AUTHORITY OF THE DIRECTOR.—The Director shall have the exclusive authority to make such determinations and to take such actions as are deemed necessary with respect to a specific enterprise regarding—

(1) the denial for reasons of financial safety and soundness of any request for approval under the applicable law and regulations;

(2) an examination;

(3) a decision to appoint a conservator for an enterprise; and

(4) any enforcement action under subtitle B or C, including the final decision in a contested administrative enforcement proceeding.

Nothing in this subsection shall be construed to prohibit the Director from consulting with the Secretary on any matter.

(b) AUTHORITY OF THE SECRETARY.—All other authority vested in the Director, including the authority to issue rules and regulations, shall be exercised by the Director subject to the review and approval of the Secretary.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to Development"; any employee, representative or agent of the Office any authority of the Director.

SEC. 115. PERSONNEL.

The Director shall fix the number of, appoint, set the compensation of, and direct all employees of the Office.

SEC. 116. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary or appropriate for carrying out any law within the Director's jurisdiction.

(b) EXEMPTION FROM PRIOR NOTIFICATION TO THE CONGRESS.—The provisions of section 3535(o), title 42, United States Code, shall not apply with respect to rules and regulations under development or review or to be published by the Director pursuant to this Act.

SEC. 117. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) Section 303(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718(b)) is amended by striking "Secretary of Housing and Urban Development" and inserting instead "Director of the Office of Government-Sponsored Enterprise Financial Oversight".

(b) Section 304(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(b)) is amended—

(1) in the first sentence, by striking the semicolon and all that follows through "Secretary of Housing and Urban Development";

(2) by striking the second sentence;

(3) in the first sentence, by inserting "and the Director of the Office of Government-Sponsored Enterprises Financial Oversight" after "the Secretary of the Treasury" both times it occurs; and

(4) by inserting after the first sentence the following new sentence: "Any obligation that the corporation has issued or is issuing as of the date of enactment of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, or any obligation of a substantially identical type, shall be deemed to have been approved by the Director of the Office of Government-Sponsored Enterprises Financial Oversight.".

(c) Section 309(h) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(h)) is amended in the first sentence by striking "The" and inserting instead "Except for authority vested in the Director of the Office of Government-Sponsored Enterprises Financial Oversight, the".

(d) Section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking "and all issuances of stock, and debt obligations convertible into stock, by the corporation".

(e) EFFECTIVE DATES.—

(1) The provisions of subsections (a), (c), and (d) shall become effective on January 1, 1992.

(2) The provisions of subsection (b) shall become effective three years after the date of enactment of this Act.

(f) TRANSITIONAL PROVISION.—Any rules or regulations issued by the Secretary pursuant to the provisions of the Federal National Mortgage Association Charter Act shall be effective and enforceable by the Secretary to the extent that such rules and regulations are not inconsistent with the authorities and duties of the Director under this title.

SEC. 118. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended—

(1) in paragraph (1), by striking "The" the first time it appears and inserting instead "Except for authority vested in the Director of the Office of Government-Sponsored Enterprises Financial Oversight, the"; and

(2) by striking paragraphs (3), (5), and (6) and redesignating paragraphs (4), (7), and (8) as paragraphs (3), (4), and (5), respectively.

(b) Section 306(j) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(j)) is amended—

(1) in paragraph (1), by inserting "and the Director of the Office of Government-Sponsored Enterprises Financial Oversight" and "Secretary of the Treasury" both times it occurs; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Any notes, debentures, or other unsecured obligations of the Corporation that the Corporation has issued or is issuing as of the date of enactment of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, or any obligation of a substantially identical type, shall be deemed to have been approved by the Director of the Office of Government-Sponsored Enterprises Financial Oversight.".

(c) EFFECTIVE DATE.—The amendments described in subsection (a)(1), (a)(2) (other than the amendment striking paragraph (5)), and (a)(3) and the provisions of subsection (b) shall become effective on January 1, 1992. The amendment in subsection (a)(2) that strikes paragraph (5) shall become effective three years after the date of enactment of this Act.

(d) TRANSITIONAL PROVISION.—Any rules or regulations issued by the Secretary pursuant to the provisions of the Federal Home Loan Mortgage Corporation Act shall be effective and enforceable by the Secretary to the extent that such rules and regulations are not inconsistent with the authorities and duties of the Director under this title.

SEC. 119. ANNUAL REPORTS.

Not later than April 15 of each year beginning in 1992, the Director shall make a written report to the Congress setting out—

(a) the steps the Director has taken and is taking to implement the provisions of this title;

(b) the financial safety and soundness of each enterprise; and

(c) any recommendations for amendment of this title or any other law affecting the financial safety and soundness of the enterprises.

SEC. 120. FUNDING.

(a) ASSESSMENTS, FEES, AND OTHER CHARGES.—The Secretary is authorized to impose and collect assessments, fees, and other charges on the enterprises as necessary or appropriate to carry out the Director's responsibilities and the Secretary's other regulatory responsibilities for the enterprises. Such assessments, fees, and other charges shall be set to meet the full cost to the Federal Government of the services provided by the Director and the Secretary in carrying out such responsibilities.

(b) TREASURY ACCOUNT.—There is hereby established in the Treasury a separate fund into which the assessments, fees, and other charges collected pursuant to subsection (a) shall be deposited and immediately available to carry out the responsibilities of the Secretary and the Director described in subsection (a) without regard to fiscal year limitation. Such amounts deposited in the fund as the Secretary deems necessary can be used for payments to the Department of Housing and Urban Development "Salaries and Expenses" account to carry out the purposes of this section.

Subtitle B—Capital Levels and Special Enforcement Powers

SEC. 131. CAPITAL ADEQUACY AND PROMPT CORRECTIVE ACTION.

(a) CLASSIFICATION ACCORDING TO CAPITAL SUFFICIENCY.—

(1) ESTABLISHMENT OF RELEVANT CAPITAL MEASURES AND MINIMUM RISK-BASED CAPITAL LEVELS.—

(A) ESTABLISHMENT BY DIRECTOR.—To satisfy the criteria specified in subparagraph (B), the Director shall by regulation establish—

(i) relevant capital measures; and

(ii) minimum risk-based capital levels for each such relevant capital measure.

(B) CRITERIA FOR MINIMUM RISK-BASED CAPITAL LEVEL.—The relevant capital measures and corresponding minimum risk-based capital levels established by the Director shall ensure that the total capital of each enterprise—

(i) exceeds the leverage limit specified in paragraph (2); and

(ii) equals, as determined by the Director, the sum of—

(I) an amount of capital sufficient, when considered in conjunction with guarantee fees paid to the enterprise, to enable the enterprise to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Director;

(II) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(III) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

(2) LEVERAGE LIMIT.—

(A) STATUTORY FLOOR.—For purposes of this section, the leverage limit shall be a level of capital equal to the sum of—

(i) 2.50 percent of total on-balance sheet assets;

(ii) 0.45 percent of total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise; and

(iii) such other percentage of other off-balance sheet obligations as the Director may establish by regulation.

(B) DISCRETIONARY UPWARD ADJUSTMENT.—The Director may by regulation establish a leverage limit above the level specified in subparagraph (A).

(3) CRITICAL CAPITAL LEVEL.—For purposes of this section, the critical capital level shall be a level of capital equal to the sum of—

(A) 1.25 percent of total on-balance sheet assets;

(B) 0.25 percent of total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise; and

(C) such other percentage of other off-balance sheet obligations as the Director may establish by regulation.

(4) USE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—For the purposes of paragraphs (2) and (3), "on-balance sheet assets" and "off-balance sheet obligations" shall be determined according to generally accepted accounting principles.

(5) EFFECTIVE DATES.—

(A) ESTABLISHMENT OF MINIMUM RISK-BASED CAPITAL LEVELS.—The Director shall establish the relevant capital measures and capital levels required under paragraph (1) no later than one year after the date of enactment of this Act.

(B) PHASE-IN FOR LEVELS I AND II.—The provisions of this section that authorize the Director to take action by reason of an enterprise falling within Levels I or II shall become effective three years after the date of enactment of this Act.

(C) PHASE-IN FOR LEVEL III.—The provisions of this section that authorize the Director to take action by reason of an enterprise falling within Level III shall become effective one year after the date of enactment of this Act.

(6) DEFINITION OF CAPITAL LEVELS.—Unless otherwise reclassified pursuant to paragraph (6), for purposes of this section—

(A) LEVEL I.—Level I includes any enterprise that—

(i) maintains capital that is below the minimum risk-based capital level for any relevant capital measure; and

(ii) is not within Levels II, III, and IV;

(B) LEVEL II.—Level II includes any enterprise that—

(i) maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit; or

(ii) is otherwise classified within Level II under the provisions of this section;

(C) LEVEL III.—Level III includes any enterprise that—

(i) maintains capital that is below the leverage limit but that is at or exceeds the critical capital level; or

(ii) is otherwise classified within Level III under the provisions of this section; and

(D) LEVEL IV.—Level IV includes any enterprise that maintains capital below the critical capital level.

(7) RECLASSIFICATION.—The Director may reclassify any enterprise that is not within Level IV to Level III if the Director determines that that enterprise is in an unsafe and unsound condition or engaging in an unsafe or unsound practice.

(b) REGULATIONS AND OTHER AUTHORITY.—

(1) IN GENERAL.—The Director shall promulgate regulations and take such other actions as are necessary to implement the provisions of this section and is authorized to issue orders and take such other actions as are necessary or appropriate to carry out the purposes of this section.

(2) CAPITAL ZONES.—Consistent with the purposes of this section, the Director shall by regulation specify the applicable capital levels for each relevant capital measure in each capital level established by this section.

(3) APPROVAL OF ACTIVITIES.—An enterprise within Level I, II, III, or IV may undertake any activity subject to the approval of the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act only with the additional approval of the Director, as provided in this section.

(c) MANDATORY SUPERVISORY ACTIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL I.—

(1) RESTRICTIONS ON EXPANSION.—

(A) EXPANSION RESULTING IN RECLASSIFICATION.—The Director shall not approve or permit—

(i) any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director that would result in reclassification of an enterprise within Level I to Level II or III, unless the Director finds that the transaction substantially improves the financial condition of an enterprise involved in the transaction or is consistent with a capital restoration plan approved by the Director and meets the other standards required to be reviewed by the Director in considering such proposals under the applicable laws; and

(ii) any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director that would result in reclassification of the enterprise to Level IV.

(B) UNSAFE AND UNSOUND PRACTICES OR CONDITION.—The Director shall not approve or permit any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity involving an enterprise within Level I if the Director determines that the enterprise involved in the investment or other activity is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

(2) CAPITAL DISTRIBUTIONS.—

(A) LIMITATION.—No enterprise within Level I shall make any capital distribution that would cause the enterprise to be reclassified within Levels III or IV. Such enterprise may make a capital distribution that would cause the enterprise to be reclassified to Level II, if the enterprise provides the Director with written notice pursuant to section 133(d) and the Director has issued a notice of approval.

(B) STANDARDS FOR APPROVAL.—The Director shall approve payment of a capital distribution by an enterprise under this paragraph only if the Director determines that the capital distribution will enhance the enterprise's ability to meet the minimum risk-based capital levels for all relevant capital measures or that the distribution is otherwise in the public interest.

(3) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level I if the Director determines in writing that such action is in the public interest.

(d) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL II.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Every enterprise within Level II shall, within the time period provided in subsection (h), submit to the Director and, after its acceptance, implement a capital plan that meets the requirements of subsection (h) and will restore the relevant capital measures of the enterprise to at least the levels required for classification within Level I.

(B) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

(i) PRIOR APPROVAL REQUIRED.—No enterprise within Level II shall make any capital distribution that would cause the enterprise to be reclassified within Levels III or IV. No enterprise within Level II shall make any other capital distribution unless the enterprise receives the prior approval of the Director.

(ii) STANDARDS FOR APPROVAL.—The Director may approve payment of a capital distribution by an enterprise within Level II only if the Director determines that the capital distribution will enhance the ability of the enterprise promptly to meet the minimum risk-based capital levels for all relevant capital measures or is otherwise in the public interest.

(C) RESTRICTION ON EXPANSION.—The Director shall not approve or permit any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director by an enterprise within Level II unless the Director finds that the transaction furthers achievement of the capital restoration plan approved by the Director for the enterprise.

(D) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—An enterprise within Level II shall immediately be reclassified to Level III, and shall be subject to all of the provisions applicable to enterprises within Level III, if—

(i) the enterprise does not submit the capital restoration plan required in subparagraph (A) within the time required by the Director; or

(ii) the Director is not satisfied that the enterprise is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the Director.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level II if the Director determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Director, the Director may, at any time, based upon a finding that the enterprise is within Level II—

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the enterprise, including off-balance sheet liabilities.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the enterprise's assets, or require contraction of the assets of the enterprise.

(C) RESTRICT DISTRIBUTIONS.—Restrict the enterprise from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the enterprise to issue new capital in any form and in any amount sufficient to restore the enterprise to at least the capital levels required for Level I.

(E) RESTRICT ACTIVITIES.—Require the enterprise to terminate, reduce or alter any activity, if the Director determines that the activity creates excessive risk to the enterprise.

(F) LIMIT EXECUTIVE COMPENSATION.—Require the enterprise to reduce or eliminate any or all of the following for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; and

(iii) any payment that is or would be due under any employment severance contract.

(e) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Unless an enterprise within Level III has submitted a capital restoration plan acceptable to the Director pursuant to subsection (e), it shall, within the time provided under subsection (h), submit to the Director and, after its acceptance, implement a capital plan that meets the requirements of subsection (h) and will restore the relevant capital measures of the institution to at least the levels required for classification within Level I.

(B) PROHIBITION ON CAPITAL DISTRIBUTIONS.—No enterprise within Level III shall make any capital distribution.

(C) PROHIBITION ON EXPANSION.—No enterprise within Level III shall directly or indirectly engage in any new investment or activity.

(D) LIMITATION ON ASSET GROWTH.—

(i) No enterprise within Level III shall increase its total assets, except as permitted under clause (ii).

(ii) Notwithstanding clause (i), the Director may permit a enterprise within Level III to increase its total assets if—

(I) the Director has accepted the enterprise's capital restoration plan;

(II) any increase in assets is accompanied by an increase in capital in an amount not less than the increase in assets multiplied by the respective relevant capital measures for Level I enterprises; and

(III) the enterprise's capital levels increase at a rate sufficient to enable the enterprise to satisfy the enterprise's capital restoration plan within a reasonable time.

(E) LIMITATION ON COMPENSATION.—An enterprise within Level III may not pay to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months;

(iii) any payment that is or would be due under any employment severance contract.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action authorized by this section from an enterprise within Level III if the Director determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Director, the Director may, at any time, take any of the following actions based upon a finding that the enterprise is within Level III—

(A) DISCRETIONARY SUPERVISORY ACTIONS PERMITTED UNDER LEVEL I OR LEVEL II.—Take any discretionary supervisory action authorized under subsection (e)(3) in connection with an enterprise within Level III.

(B) LIMIT EXECUTIVE COMPENSATION.—Require the enterprise to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act if the Director determines the compensation to be excessive.

(C) DISMISS DIRECTORS OR EXECUTIVE OFFICERS.—

(i) Require the enterprise to dismiss from office at the enterprise any or all of the following persons if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the enterprise following enactment of this Act and the person has been employed in that position at the enterprise for at least 180 days—

(I) any member of the enterprise's board of directors that was not appointed and is not subject to removal by the President; or

(II) any executive officer.

(ii) The Director may notify the President of any director whom the Director would have required the enterprise to dismiss under clause (i) but for the fact that the director was appointed and subject to removal by the President. The Director shall include in such notification the grounds for removal of that Director.

(iii) Dismissal under clause (i) shall not be construed as removal under section 143.

(D) CONSERVATORSHIP.—Appoint a conservator for the enterprise.

(f) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL IV.—

(1) MANDATORY SUPERVISORY ACTIONS.—The Director shall, not alter than 30 days after determining that an enterprise is within Level IV, appoint a conservator for the enterprise and any such conservator shall have full authority, in its sole discretion, to take any actions authorized under subsections (d) and (e) not inconsistent with the powers of the conservator, and to take any other actions authorized pursuant to the provisions applicable to conservators under the applicable laws.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level IV if the Director determines in writing that such action is in the public interest.

(g) CAPITAL RESTORATION PLANS.—

(1) CONTENTS OF PLAN.—A capital restoration plan submitted under this section shall be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the enterprise to at least the levels required by the subsection pursuant to which the capital restoration plan is ordered. A capital restoration plan must—

(A) specify the levels of capital the enterprise will achieve and maintain;

(B) describe the steps the enterprise will take to restore each of the relevant capital measures for the enterprise to the required levels;

(C) establish a schedule for promptly completing the capital restoration plan;

(D) specify the types and levels of activities in which the enterprise will engage during the pendency of the capital restoration plan;

(E) explain the steps that the enterprise will take to comply with any mandatory and discretionary requirements imposed under the applicable laws; and

(F) be acceptable to the Director.

(2) DEADLINES FOR SUBMISSION OF CAPITAL RESTORATION PLAN.—The Director shall by regulation establish deadlines that provide enterprises a reasonable period of time, but not more than 30 days, to submit a capital restoration plan acceptable to the Director. Such regulation shall provide that the Director may extend such deadline to the extent that the Director determines necessary or appropriate.

(3) AGENCY REVIEW OF CAPITAL RESTORATION PLANS.—The Director shall review and act on a capital restoration plan not later than 30 days after the plan is submitted, except that such period may be extended by the Director.

(h) JUDICIAL REVIEW OF AGENCY ACTION.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—A person aggrieved by an action of the Director under this section may obtain review of that action by filing, within ten days after receiving notice of the Director's action, a written petition requesting that the action of the Director be modified, terminated or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. For purposes of this subparagraph, the "concerned enterprise" shall mean the enterprise whose classification within a particular zone is the basis for the Director's action of which the person aggrieved complains.

(C) PERSON AGGRIEVED DEFINED.—A "person aggrieved by the action of the Director" means—

(i) the enterprise or company that is the subject of a mandatory or discretionary supervisory action with respect to a mandatory or discretionary supervisory action taken under this section for enterprises within Levels I, II, and III;

(ii) any person dismissed, with respect to an order under this section for the dismissal of a director or executive officer; and

(iii) any person whose compensation, bonus or severance payment has been reduced or eliminated, with respect to an order under this section reducing or eliminating such payments due an executive officer.

(2) SCOPE OF REVIEW.—Action taken by the Director under this section shall be modified, terminated, or set aside only if the court finds, on the record on which the Director acted, that the Director's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

(3) UNAVAILABILITY OF INJUNCTIVE RELIEF.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the Director. No court shall have jurisdiction to stay, enjoin or otherwise delay agency action taken under this section pending judicial review of that action.

(4) WITHDRAWAL OF JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or effectiveness of any action of the Director under this section or to review, modify, suspend, terminate, or set aside such action.

SEC. 132. SAFE HARBOR.

(a) VOLUNTARY RATINGS.—Upon request from an enterprise, the Director shall contract with two nationally recognized statistical rating organizations—

(1) to assess the likelihood that the enterprise might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the enterprise for one year from the effective date of the rating.

(b) QUALIFICATION FOR SAFE HARBOR.—

(1) DETERMINATION BY DIRECTOR.—If, after receiving a rating from each statistical rating organization described in subsection (a), the Director determines that the enterprise merits the highest investment grade rating awarded by that organization, the enterprise shall be deemed, effective for one year following the date of the Director's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of section 131.

(2) WRITTEN FINDING REQUIRED.—If—

(A) each statistical rating organization described in subsection (a) assigns the enterprise the highest investment grade rating awarded by that organization, and

(B) the Director fails to make the determination described in paragraph (A),

the Director shall make a written finding detailing the reasons for the Director's failure to make such determination.

(c) EARLY TERMINATION OF SAFE HARBOR.—Subsection (b) shall cease to apply at such time as any such statistical rating organization described in subsection (a) notifies the Director, and the Director determines, that the enterprise no longer merits the highest investment grade rating awarded by that organization. The Director shall promptly notify the enterprise that the Director has received the notice described in this subsection.

(d) ASSESSMENTS FOR RATINGS.—The Director shall impose and collect an assessment on an enterprise that requests ratings under subsection (a). Such assessment shall cover the full cost to the Federal Government of obtaining the ratings.

(e) DISCRETIONARY RATINGS.—Nothing in this section shall prevent the Director from contracting with any nationally recognized statistical rating organization to rate an enterprise at any time and for any purpose that the Director deems appropriate.

(f) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this section, the term "nationally-recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

SEC. 133. REPORTS TO DIRECTOR.

(a) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING.—

(1) REGULAR REPORTS.—Each enterprise shall make to the Director quarterly reports of condition which shall be in such form, shall contain such information, and shall be made on such dates as the Director shall require.

(2) CERTIFICATION OF REPORTS.—Each report of condition shall contain a declaration by the president, a vice president, the treasurer, or by any other officer designated by the board of directors of the enterprise to make such declaration, that the report is true and correct to the best of his or her knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the enterprise other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(b) ADDITIONAL AND SPECIAL REPORTS.—The Director may require additional reports, in such form and containing such information as the Director may prescribe, on dates to be fixed by the Director, and may require special reports from any particular enterprise whenever, in the Director's judgment, such reports are necessary for the Director to carry out the purposes of this title.

(c) PENALTIES.—

(1)(A) FIRST TIER.—If an enterprise—

(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make any report required under this paragraph, within the period of time specified by the Director, or submits any false or misleading report or information, or

(ii) inadvertently transmits any report which is minimally late,

the enterprise shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected.

(B) The enterprises shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted late.

(2) SECOND TIER.—If an enterprise fails to make any report required under this section within the period of time specified by the Director, or submits any false or misleading report or information, in a manner not described in paragraph (1) of this subsection, the enterprise shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) THIRD TIER.—Notwithstanding paragraph (2), if an enterprise knowingly or with reckless disregard for the accuracy of any information or report described in such paragraph submits any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of the enterprise, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) ASSESSMENT AND COLLECTION.—Any penalty imposed under this subsection shall be assessed and collected by the Director in the manner provided in section 147(e)-(g), (i), (j) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty shall be subject to the provisions of such section.

(5) HEARING.—An enterprise shall be afforded a hearing with respect to any penalty assessed under this subsection if the enterprise submits a written request for such hearing within 20 days after the issuance of the notice of assessment. Section 145 shall apply to any proceeding under this paragraph.

(d) CAPITAL DISTRIBUTIONS.—Each enterprise shall make to the Director advance reports of any capital distributions to be declared or paid in such cases and under such conditions as the Director deems necessary, if such form and at such times as it may require.

SEC. 134. EXAMINATIONS.

(a) APPOINTMENT OF EXAMINERS.—The Director shall appoint examiners to examine the enterprises.

(b) EXAMINATIONS.—Any examiner appointed under subsection (a) shall examine such enterprise whenever the Director determines that an examination is necessary to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(c) TECHNICAL EXPERTS.—The Director is authorized to contract for the services of such technical experts as the Director deems necessary and appropriate to provide temporary technical assistance to any examiner appointed under subsection (a).

(d) POWER AND DUTY OF EXAMINERS.—Each examiner apppointed under subsection (a) shall—

(1) have the power, on behalf of the Director, to make a thorough examination of any enterprise under subsection (b); and

(2) make a full and detailed report of condition of the enterprise examined to the Director.

(e) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with examinations of the enterprises, the Director is authorized to administer oaths and affirmations, examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any enterprise or affiliate thereof, and to exercise such other powers as are set forth in section 152.

(f) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(1) IN GENERAL.—The Director may cause any and all records, papers, or documents kept by the Director or in the Director's possession or custody to be photographed or microphotographed or otherwise reproduced upon flim, in a manner that shall comply with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(2) DEEMED AS ORIGINALS.—Such photographs, microphotographs, or photographic film or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) PRESERVATION.—Such photographs, microphotographs, or reproductions shall be preserved in such manner as the Director shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Director shall direct.

Subtitle C—General Enforcement Powers

SEC. 141. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve upon an enterprise or any director or executive officer thereof a notice of charges if, in the opinion of the Director, the enterprise, director, or executive officer—

(1) is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, director, or executive officer is about to engage, in an unsafe or unsound practice in conducting the business of the enterprise; or

(2) is violating or has violated, or the Director has reasonable cause to believe that the enterprise, director, or executive officer is about to violate——

(A) a law, rule, or regulation;

(B) any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise; or

(C) any written agreement entered into with the Director.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Any notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the enterprise, director, or executive officer.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Director at the request of any party served.

(3) FAILURE TO APPEAR CONSTITUTES CONSENT.—Unless the party or parties so served appear at the hearing personally or by a duly authorized representative, such party or parties shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Director shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Director may issue and serve upon the enterprise, director, or executive officer an order requiring the enterprise, director, or executive officer to cease and desist from any such violation or practice and to take affirmative action to correct the conditions resulting from any such violation or practice.

(c) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority under this section and section 142 to issue any order which requires an enterprise, or any director or executive officer thereof, to take affirmative action to correct or remedy any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such enterprise, director, or executive officer—

(1) to make restitution or provide reimbursement, indemnification, or guarantee against loss if—

(A) the enterprise, director, or executive officer was unjustly enriched in connection with such violation or practice; or

(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Director;

(2) to restrict the growth of the enterprise;

(3) to dispose of any asset involved;

(4) to rescind agreements or contracts;

(5) to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(6) take such other action as the Director determines appropriate.

(d) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 142 includes the authority to place limitations on the activities or functions of the enterprise, or any director or executive officer thereof.

(e) EFFECTIVE DATE.—A cease-and-desist order shall become effective at the expiration of 30 days after the service of such order upon the enterprise, director, or executive officer concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

SEC. 142. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE; SCOPE.—Whenever the Director determines that any violation, threatened violation, or unsafe or unsound practice, specified in the notice of charges served upon the enterprise, director, or executive officer pursuant to section 142(a), or the continuation thereof, is likely—

(1) to cause insolvency or significant dissipation of assets or earnings of the enterprise, or

(2) to weaken the condition of the enterprise prior to the completion of the proceedings conducted pursuant to section 141(b),

the Director may issue a temporary order requiring the enterprise, or any director or executive officer thereof, to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, or condition pending completion of such proceedings. Such order may include any requirement authorized under section 141(c).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, director, or executive officer and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d), shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until such time as the Director dismisses the charges specified in such notice or unitl superseded by a cease-and-desist order isssued pursuant to section 141.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under subsection (a) of section 141 specifies that the enterprise's books and records are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of that enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 141.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings under subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 141 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the enterprise's books and records are accurate and reflect the financial condition of the enterprises.

(d) JUDICIAL REVIEW.—Within 10 days after the enterprise, director, or executive officer has been served with a temporary cease-and-desist order pursuant to this section, the enterprise, or any director or executive officer thereof, may apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, director, or executive officer under section

141(a), and such court shall have jurisdiction to issue such injunction.

(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia for an injunction to enforce such order, and, if the court finds any such violation, threatened violation, or failure to obey, it shall issue such injunction.

SEC. 143. REMOVAL AND PROHIBITION AUTHORITY.

(a) AUTHORITY TO ISSUE ORDER.—The Director may serve upon any director (other than a director appointed and subject to removal by the President) or executive officer of an enterprise a written notice of the Director's intention to remove such director or executive officer from office or to prohibit any further participation by such director or executive officer, in any manner, in the conduct of the affairs of the enterprise whenever the Director determines that—

(1) such director or executive officer has directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by the Director in connection with the grant of any application or other request by the enterprise; or

(iv) any written agreement between the enterprise and the Director;

(B) engaged or participated in any unsafe or unsound practice in connection with the enterprise; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of such director's of executive officer's fiduciary duty;

(2) by reason of the violation, practice, or breach described in any clause of paragraph (1)—

(A) the enterprise has suffered or will probably suffer financial loss or other damage; or

(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such director or executive officer; or

(B) demonstrates willful or continuing disregard by such director or executive officer for the safety or soundness of the enterprise.

(b) SUSPENSION ORDER.—

(1) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Director serves written notice under subsection (a) to any director or executive officer of an enterprise, the Director may suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise, if the Director—

(A) determines that such action is necessary for the protection of the enterprise; and

(B) serves upon such director or executive officer written notice of the suspension order.

(2) EFFECTIVE PERIOD.—Any suspension order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

(i) the date the Director dismisses the charges with respect to such director or executive officer; or

(ii) the effective date of an order issued by the Director to such director or executive officer under subsection (a).

(3) COPY OF ORDER.—If the Director issues a suspension order under subsection (b) to any director or executive officer of an enterprise, the Director shall serve a copy of such order on the enterprise at the time such order is issued.

(c) PROCEDURE.—

(1) NOTICE.—A notice of intention to remove a director or executive officer of an enterprise from office or to prohibit such director or executive officer from participating in the conduct of the affairs of the enterprise shall contain a statement of the facts constituting grounds therefore and shall fix a time and place at which a hearing will be held thereon.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of such party and for good cause shown, or the Attorney General of the United States.

(3) FAILURE TO APPEAR DEEMED CONSENT.—Unless such party appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such removal or prohibition.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if upon the record made at any such hearing, the Director finds that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the enterprise, as the Director may deem appropriate.

(d) EFFECTIVE DATE.—Any such order shall become effective at the expiration of 30 days after service upon the enterprise and the director or executive officer (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

(e) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

(1) participate in any manner in the conduct of the affairs of any institution or agency specified in subsection (f)(1);

(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (1);

(3) violate any voting agreement previously approved by the Director; or

(4) vote for a director, or serve or act as a director or executive officer of an enterprise.

(f) INDUSTRYWIDE PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any director or executive officer who, pursuant to an order issued under this section, has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

(A) any insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(B) any depository institution or institution treated as an insured bank under section 8(b)(3) or 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3),(b)(4)), or as a savings association under section 8(b)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(8));

(C) any insured credit union as defined in section 101(7) of the Fedeal Credit Union Act (12 U.S.C. 1752);

(D) any institution chartered under the Farm Credit Act of 1971;

(E) the Federal Housing Finance Board and any Federal home loan bank;

(F) the Federal National Mortgage Association;

(G) the Federal Home Loan Mortgage Corporation;

(H) the Student Loan Marketing Association;

(I) the Government National Mortgage Association;

(J) any appropriate Federal depository institutions regulatory agency; and

(K) the Resolution Trust Corporation.

(2) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any director or executive officer of an enterprise or prohibits such director or executive officer from participating in the conduct of the affairs of an enterprise, such party receives the written consent of—

(A) the Director, and

(B) the appropriate Federal financial institutions regulatory agency of the institution described in paragraph (1) in which such director or executive officer proposes to hold office or in the conduct of whose affairs such director or executive officer proposes to participate,

paragraph (1) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in such written consent. Any agency that grants such a written consent shall report such action to the Director and publicly disclose such consent.

(3) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order described in such paragraph shall be treated as a violation of the order.

(4) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "appropriate Federal financial institutions regulatory agency" means—

(A) the Secretary and the Director, in the case of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Secretary, in the case of the Government National Mortgage Association;

(C) the appropriate Federal banking ageny as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of an insured depository institution;

(D) the Secretary of the Treasury, in the case of the Student Loan Marketing Association, the Federal Housing Finance Board, and any Federal home loan bank;

(E) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

(F) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. §1752(7)); and

(G) the Oversight Board, in the case of the Resolution Trust Corporation.

(5) CONSULTATION BETWEEN AGENCIES.—The agencies described in paragraph (2) shall con-

sult with each other before providing any written consent authorized by paragraph (2).

(g) STAY OF SUSPENSION OR PROHIBITION.—Within ten days after any director or executive officer of an enterprise has been suspended from office or prohibited from participation in the conduct of the affairs of an enterprise under subsection (b), such director or executive officer may apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director or executive officer, under subsection (a), and such court shall have jurisdiction to stay such suspension or prohibition.

(h) DIRECTORS APPOINTED BY THE PRESIDENT.—The Director may notify the President of any director of an enterprise on whom the Director would have served a notice of intention to remove the director or to prohibit the director from participating in the conduct of the affairs of the enterprise under subsection (a) but for the fact that that director was appointed and subject to removal by the President. The Director shall include in such notice the grounds for issuance of the notice of intention.

SEC. 144. SUSPENSION OR REMOVAL OF DIRECTOR OR EXECUTIVE OFFICER CHARGED WITH FELONY.

(a) SUSPENSION.—Whenever any director or executive officer of an enterprise is charged in any information, indictment, or complaint with the commission of, or participation in, a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Director may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the enterprise, by written notice served upon such director or executive officer, suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise. A copy of such notice shall also be served upon the enterprise.

(b) EFFECTIVE PERIOD.—Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Director.

(c) REMOVAL.—In the event a conviction or an agreement to enter a pre-trial diversion or other similar program is entered against such director or executive officer, and at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the enterprise, issue and serve upon such director or executive officer an order removing him or her from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise except with the consent of the Director. A copy of such order shall also be served upon the enterprise, whereupon such director or executive officer shall cease to be a director or executive officer of the enterprise.

(d) DISCRETIONARY REMOVAL NOT PRECLUDED.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings to remove such director or executive officer from office or to prohibit further participation in the affairs of the enterprise pursuant to section 141(a) or (b).

(e) EFFECTIVE DATE.—Any notice of suspension or order of removal issued under this section shall remain effective and until the completion of any hearing or appeal authorized under subsection (g), unless earlier terminated by the Director.

(f) VACANCIES ON THE BOARD OF DIRECTORS.—

(1) QUORUM.—If, at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an enterprise less than a quorum, all powers and functions vested in, or exercisable by, such board shall vest in and be exercisable by the remaining director or directors, until such time as there shall be a quorum of the board of directors.

(2) ALL DIRECTORS SUSPENDED.—In the event all of the directors of the enterprise are suspended pursuant to this section, the Director shall appoint temporary directors pending the termination of such suspensions or until such time as the terms of the suspended directors expire and their successors take office.

(g) HEARING.—

(1) REQUEST FOR HEARING.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to subsection (a), the director or executive officer concerned may request in writing an opportunity to appear before the Director to show that the continued service to or participation in the conduct of the affairs of the enterprise by such director or executive officer does not, or is not likely to, threaten to impair public confidence in the enterprise.

(2) TIME AND PLACE OF HEARING: HEARING.—Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such director or executive officer) and place at which such director or executive officer may appear, personally or through a representative, before the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

(3) DECISION OF THE DIRECTOR.—Within 60 days of such hearing, the Director shall notify such director or executive officer whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the enterprise will be continued, terminated, or otherwise modified, or whether the order removing such director or executive officer from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such director or executive officer.

(h) RULEMAKING.—The Director is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 145. HEARINGS AND JUDICIAL REVIEW.

(a) Any hearing provided for in this subtitle (other than the hearing provided for in section 144)—

(1) shall be held in the Federal judicial district or in the territory in which the home office of the enterprise is located unless the party afforded the hearing consents to another place; and

(2) shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code (5 U.S.C. §§500 et seq.).

(b)(1) After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) Judicial review of any such order shall be exclusively as provided in subsection (c). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (c), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(c)(1) Any party to any proceeding under subsection (a) may obtain a review of any order served pursuant thereto (other than an order issued with the consent of the enterprise, director, or executive officer concerned, or an order issued under section 144) by the filing in the court of appeals of the United States for the circuit in which the home office of the enterprise is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director.

(2) Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall except as provided in the last sentence of subsection (b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(4) Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(d) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

SEC. 146. JURISDICTION AND ENFORCEMENT.

(a) APPLICATION FOR ENFORCEMENT.—The Director may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the enterprise is located, for the enforcement of any effective notice or order issued under this subtitle or section 131 of subtitle B, and such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON MODIFICATION.—Except as otherwise provided in this subtitle no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 147. CIVIL MONEY PENALTY.

(a) FIRST TIER.—An enterprise which, and any director or executive officer thereof who—

(1) violates any law or regulation,

(2) violates any final order or temporary order issued pursuant to section 141, 142, 143, 144, or any final order under section 131 of subtitle B,

(3) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by an enterprise, or

(4) violates any written agreement between an enterprise and the Director,

shall be subject to a civil penalty of not more than $5,000 for each day during which such violation continues.

(b) SECOND TIER.—Notwithstanding subsection (a), an enterprise which, and any director or executive officer thereof who—

(1)(A) commits any violation described in any clause of subsection (a),

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of an enterprise, or

(C) breaches any fiduciary duty, and

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct,

(B) causes or is likely to cause more than a minimal loss to the enterprise, or

(C) results in pecuniary gain or other benefit to such party,

shall be subject to a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

(c) THIRD TIER.—Notwithstanding subsections (a) and (b), an enterprise which, and any director or executive officer thereof who—

(1) knowingly—

(A) commits any violation described in subsection (a),

(B) engages in any unsafe or unsound practice in conducting the affairs of an enterprise, or

(C) breaches any fiduciary duty, and

(2) knowingly or recklessly causes a substantial loss to the enterprise or a substantial pecuniary gain or other benefit to such director or executive officer by reason of such violation, practice, or breach,

shall be subject to a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

(d) MAXIMUM AMOUNTS OF PENALTIES.—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any director or executive officer, an amount not to exceed $1,000,000; and

(2) in the case of an enterprise, an amount not to exceed the lesser of—

(A) $1,000,000, or

(B) one percent of the total assets of such enterprise.

(e) ASSESSMENT.—

(1) WRITTEN NOTICE.—Any penalty imposed under this section may be assessed and collected by the Director by written notice.

(2) FINALITY OF ASSESSMENT.—If a hearing is not timely requested pursuant to subsection (h), the penalty assessment contained in a written notice shall constitute a final and unappealable order.

(f) AUTHORITY TO MODIFY OR REMIT PENALTY.—

(1) PRIOR TO COLLECTION ACTION.—Prior to initiation of an action pursuant to subsection (i)(1), the Director may compromise, modify, or remit any penalty which is or may be assessed under this section.

(2) AFTER INITIATION OF COLLECTION ACTION.—Following the initiation of an action pursuant to subsection (i)(1), the Director may compromise, modify, or remit any penalty which is or may be assessed under this section with the prior consent of the Attorney General.

(g) MITIGATING FACTORS.—In determining the amount of any penalty under this section, the Director shall take into account the appropriateness of the penalty with respect to—

(1) the size of financial resources and good faith of the enterprise, director, or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(h) HEARING.—The enterprise, director or executive officer against whom any penalty is assessed under this section shall be afforded an agency hearing if such enterprise, director, or executive officer submits a request for such hearing within 20 days after the issuance of the notice of assessment. A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to this subsection.

(i) COLLECTION.—

(1) REFERRAL.—If the enterprise, director, or executive officer fails to pay a penalty that has become final, the Director shall, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, recover the amount assessed by action in the appropriate United States district court.

(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any action brought under paragraph (1), the validity and appropriateness of the penalty shall not be subject to review.

(j) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(k) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

SEC. 148. NOTICE UNDER THIS SUBTITLE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise (including a separation caused by the closing of the enterprise) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the six-year period beginning on the date such director or executive officer ceased to be associated with the enterprise.

SEC. 149. CRIMINAL PENALTY.

Whoever, being subject to an order in effect under section 143 or 144, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in section 143(e)) in the conduct of the affairs of any institution or agency specified in section 143(f) shall be fined not more than $1,000,000 imprisoned for not more than 5 years, or both. Such fine shall be deposited in the General Fund of the Treasury.

SEC. 150. NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

SEC. 151. SUBPOENA POWER, ETC.

(a) POWERS.—

(1) In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the power—

(A) to administer oaths and affirmations,

(B) to take or cause to be taken depositions,

(C) to issue subpoenas and subpoenas duces tecum, and

(D) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(c) RULEMAKING AUTHORITY.—The Director is authorized to make such rules and regulations as the Director determines necessary or appropriate with respect to proceedings, claims, examinations, or investigations.

(d) ENFORCEMENT.—The Director, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, or any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith.

(e) FEES AND EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by the enterprises or a director or executive officer thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the enterprises or from its assets.

SEC. 152. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Director shall publish and make available to the public—

(1) any written agreement or other written statement for which a violation may be enforced by the Director, unless the Director, in the Director's discretion, determines that publication would be contrary to the public interest;

(2) any final order issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle or any other provision of law; and

(3) any modification to or termination of any final order or agreement made public pursuant to this paragraph.

(b) TRANSCRIPTS OF HEARINGS.—A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

(c) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the publication of any final order pursuant to subsection (a) would seriously threaten the safety or soundness of the enterprise, the Director may delay the publication of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any administrative enforcement hear-

ing commenced by the Director if, as determined by the Director in writing, disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than six years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceedings initiated by the Director under this Chapter or any other laws.

(f) DISCLOSURES TO CONGRESS.—No provsion of this section shall be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

Subtitle D—Conservatorship

SEC. 161. APPOINTMENT OF CONSERVATOR.

(a) APPOINTMENT.—The Director may, without notice or prior hearing, appoint a conservator, which may be the Director, to take possession and control of an enterprise whenever the Director determines—

(1) that the enterprise is not likely to pay its obligations in the normal course of business;

(2) that the enterprise is in an unsafe or unsound condition to transact business, including having substantially insuffcient capital or otherwise;

(3)(A) that the enterprise has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

(B) there is no reasonable prospect for the enterprise's capital to be replenished without Federal assistance;

(4) that there is any violation of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the enterprise's condition;

(5) that there is concealment of books, papers, records, or assets of the enterprise, or refusal to submit books, papers, records, or affairs of the enterprise for inspection to any examiner or to any lawful agent of the Director;

(6) that there is a willful or continuing violation of an order enforceable against the enterprise under 146; or

(7) that the enterprise is classified within Level III or IV by the Director pursuant to section 131 of subtitle B.

(b) JUDICIAL REVIEW.—

(1) IN GENERAL.—

(A) Not later than 20 days after the initial appointment of a conservator pursuant to this section, the enterprise may bring an action in the United States district court for the judicial district in which the home office of such enterprise is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to terminate the appointment of the conservator.

(B) The Director's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) STAY.—

(A) IN GENERAL.—The conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(B) DIRECTOR OR FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator is the Director, a Federal agency, or an employee of the Federal Government, the conservator may make a request described in paragraph (a) only with the prior consent of the Attorney General and subject to the Attorney General's direction and control.

(3) ACTIONS AND ORDERS.—

(A) LIMITATION ON REMEDIES.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of, a conservator.

(B) ENFORCEMENT OF ORDERS.—The Director, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, may apply to a court, which shall have the jurisdiction, to enforce an order of the Director relating to—

(i) the conservatorship and the enterprise in conservatorship; or

(ii) restraining or affecting the exercise of powers or functions of a conservator.

(c) APPOINTMENT BY CONSENT.—The Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(d) EXCLUSIVE AUTHORITY.—The Director shall have exclusive power and jurisdiction to appoint a conservator for the enterprise.

(1) As a conservator, the Director shall have all the powers granted under the applicable law, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators under this subtitle and any other provision of law.

(2) Any other person appointed as a conservator shall be subject to the provisions of this subtitle.

(e) REPLACEMENT OF CONSERVATOR.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the enterprise's right under subsection (b) to obtain judicial review of the Director's original decision to appoint a conservator.

SEC. 162. EXAMINATIONS.

The Director is authorized to examine and supervise any enterprise in conservatorship as long as the enterprise continues to operate as a going concern.

SEC. 163. TERMINATION OF CONSERVATORSHIP.

(a) GENERAL RULE.—At any time the Director becomes satisfied that it may safetly be done that it would be in the public interest, the Director may terminate the conservatorship and permit the enterprises to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(b) ENFORCEMENT AS FINAL CEASE-AND-DESIST ORDER.—

(1) Such terms, conditions, and limitations as may be prescribed under subsection (a) shall be enforceable under the provisions of section 146, to the same extent as an order issued pursuant to section 141 which has become final.

(2) An enterprise may bring an action in the United States district court for the judicial district in which the home office of such enterprise is located or in the United States District Court for the District of Columbia for an order requiring the Director to terminate the order.

(3) An action for judicial review of the terms, conditions, and limitations contained in any order may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

SEC. 164. CONSERVATOR; POWERS AND DUTIES.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprises and may operate the enterprises in its own name unless the Director, in the order of appointment, limits the conservator's authority.

(b) SUBJECT TO RULES OF DIRECTOR.—Any conservator shall be subject to such rules, regulations, and orders as the Director from time to time deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders or in section 165, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of the enterprise.

(c) PAYMENT OF CREDITORS.—The Director may require the conservator to set aside and make available for payment to creditors such amounts as in the opinion of the Director may safely be used for that purpose. All creditors who are similarly situated shall be treated in the same manner.

(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—Any conservator (other than the Director) and professional employees (other than Federal employees) appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Director may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the enterprise and shall be a lien upon the enterprise which shall have priority over any other lien.

SEC. 165. LIABILITY PROTECTION.

(a) FEDERAL AGENCY AND EMPLOYEES.—In any case in which the conservator is the Director, as Federal agency, or an employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) INDEMNIFICATION.—The Director, with the approval of the Attorney General, shall have authority to indemnify the conservator on such terms as the Director deems proper.

SEC. 166. POWERS OF OFFICERS NOT AFFECTED.

Nothing in this subtitle shall be construed to impair in any manner any power of the President, the Secretary of the Treasury, the Director, or the Attorney General.

SEC. 167. RULES AND REGULATIONS.

The Director may prescribe such rules and regulations as the Director may deem necessary to carry out the provisions of this title.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

SEC. 201. AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS AS PRIMARY DUTY.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

(i) to supervise the Federal Home Loan Banks;

(ii) to ensure that the Federal Home Loan Banks carry out their housing finance missions; and

(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 301. FINDINGS.

The Congress finds that—

(a) The Student Loan Marketing Association has an important public mission, as reflected in its Federal charter;

(b) Because the continued ability of the Association to accomplish its public mission is important to health of the United States economy, more effective Government regulation is needed to provide sustained outside discipline and thereby reduce the risk of failure; and

(c) The regulatory framework of the Association should embody the following principles—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of the Association;

(2) the regulator should have sufficient stature to maintain independence from the Association and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of the Association; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules that it establishes.

SEC. 302. DEFINITIONS.

As used in this title—

(a) ASSOCIATION.—The term "Association" means the Student Loan Marketing Association.

(b) CAPITAL.—The term "capital" means, as determined in accordance with generally accepted accounting principles, the sum of—

(1) the par value of outstanding common stock,

(2) the par value of outstanding preferred stock,

(3) paid-in capital, and

(4) retained earnings.

(c) CAPITAL DISTRIBUTION.—The term "capital distribution" means—

(1) a dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of the Association, except a dividend consisting only of shares of the Association;

(2) a payment made by the Association to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares; or

(3) a transition that the Secretary determines by order or regulation to be in substance the distribution of capital.

(d) COMPENSATION.—The term "compensation" means any payment of money or provision of any other thing of current or potential value in connection with employment.

(e) EXECUTIVE OFFICER.—The term "executive officer" of an enterprise means—

(1) the chief executive officer;

(2) the chief financial officer; or

(3) any other person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the enterprise whether or not the person—

(A) has an official title;

(B) has a title designating the person an assistant; or

(C) is serving without compensation.

(f) SECRETARY.—The term "Secretary" shall mean the Secretary of the Treasury.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

SEC. 311. ANNUAL REPORTS.

Not later than April 15 of each year beginning in 1992, the Secretary shall make a written report to the Congress setting out—

(a) the steps the Secretary has taken and is taking to implement the provisions of this title;

(b) the financial safety and soundness of the Association; and

(c) any recommendations for amendment of this title or any other law affecting the financial safety and soundness of the Association.

SEC. 312. FUNDING.

(a) ASSESSMENTS, FEES, AND OTHER CHARGES.—The Secretary is authorized to impose and collect assessments, fees, and other charges on the Association as necessary or appropriate to carry out the Secretary's responsibilities for the Association. Such assessments, fees, and other charges shall be set to meet the full cost to the Federal Government of the services provided by the Secretary in carrying out such responsibilities.

(b) TREASURY ACCOUNT.—There is hereby established in the Treasury a separate fund in to which the assessments, fees, and other charges collected pursuant to subsection (a) shall be deposited and immediately available to carry out the responsibilities of the Secretary described in subsection (a) without regard to fiscal year limitation.

SEC. 313. AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.

Section 439 of the Higher Education Act of 1965, as amended, (20 U.S.C. 1087-2) is amended—

(a) in subsection (h)(2), by striking "or the Secretary of the Treasury" in the second sentence;

(b) in subsection (h)(4), by striking "or the Secretary of the Treasury" both times it appears in the first sentence and by striking "and the Secretary of the Treasury"in the second sentence; and

(c) by striking subsection (k) and by redesignating subsections (l) through (q) as (k) through (p).

Subtitle B—Capital Levels and Special Enforcement Powers

SEC. 321. CAPITAL ADEQUACY AND PROMPT CORRECTIVE ACTION.

(a) CLASSIFICATION ACCORDING TO CAPITAL SUFFICIENCY.—

(1) ESTABLISHMENT OF RELEVANT CAPITAL MEASURES AND MINIMUM RISK-BASED CAPITAL LEVELS.—

(A) ESTABLISHMENT BY SECRETARY.—To satisfy the criteria specified in subparagraph (B), the Secretary shall by regulation establish—

(i) relevant capital measures; and

(ii) minimum risk-based capital levels for each such relevant capital measure.

(B) CRITERIA FOR MINIMUM RISK-BASED CAPITAL LEVEL.—The relevant capital measures and corresponding minimum risk-based capital levels established by the Secretary shall ensure that the total capital of the Association—

(i) exceeds the leverage limit specified in paragraph (2); and

(ii) equals, as determined by the Secretary, the sum of—

(I) an amount of capital sufficient to enable the Association to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Secretary.

(II) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(III) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

(2) LEVERAGE LIMIT.—

(A) STATUTORY FLOOR.—For purposes of this section, the leverage limit shall be a level of capital equal to the sum of—

(i) 2 percent of total on-balance sheet assets; and

(ii) such percentage of off-balance sheet obligations as the Secretary may establish by regulation.

(B) DISCRETIONARY UPWARD ADJUSTMENT.—The Secretary may by regulation establish a leverage limit above the level specified in subparagraph (A).

(3) CRITICAL CAPITAL LEVEL.—For purposes of this section, the critical capital level shall be a level of capital equal to the sum of—

(A) 1.00 percent of total on-balance sheet assets; and

(B) such percentage of off-balance sheet obligations as the Secretary may establish by regulation.

(4) USE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—For the purposes paragraphs (2) and (3), "on-balance sheet assets" and "off-balance sheet obligations" shall be determined according to generally accepted accounting principles.

(5) EFFECTIVE DATES.—

(A) ESTABLISHMENT OF MINIMUM RISK-BASED CAPITAL LEVELS.—The Secretary shall establish the relevant capital measures and capital levels required under paragraph (1) no later than one year after the date of enactment of this Act.

(B) PHASE-IN FOR LEVELS I AND II.—The provisions of this section that authorize the Secretary to take action by reason of the Association falling within Levels I or II shall become effective three years after the enactment of this Act.

(C) PHASE-IN FOR LEVEL III.—The provisions of this section that authorize the Secretary to take action by reason of the Association falling within Level III shall become effec-

tive one year after the date of enactment of this Act.

(6) DEFINITION OF CAPITAL LEVELS.—Unless otherwise reclassified pursuant to paragraph (7), for purposes of this section—

(A) LEVEL I.—The Association shall be within Level I if it—

(i) maintains capital that is below the minimum risk-based capital level for any relevant capital measure; and

(ii) is not within Levels II, III, and IV;

(B) LEVEL II.—The Association shall be within Level II if it—

(i) maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit; or

(ii) is otherwise classified within Level II under the provisions of this section;

(C) LEVEL III.—The Association shall be within Level III if it—

(i) maintains capital that is below the leverage limit but that is at or exceeds the critical capital level; or

(ii) is otherwise classified within Level III under the provisions of this section; and

(D) LEVEL IV.—The Association shall be within Level IV if it maintains capital below the critical capital level.

(7) RECLASSIFICATION.—Unless the Association is within Level IV, the Secretary may reclassify it to Level III if the Secretary determines that the Association is in an unsafe and unsound condition or engaging in an unsafe or unsound practice.

(b) REGULATIONS AND OTHER AUTHORITY.—

(1) IN GENERAL.—The Secretary shall promulgate regulations and take such other actions as are necessary to implement the provisions of this section and is authorized to issue orders and take such other actions as are necessary or appropriate to carry out the purposes of this section.

(2) CAPITAL LEVELS.—Consistent with the purposes of this section, the Secretary shall by regulation specify the applicable capital levels for each relevant capital measure in each capital level established by this section.

(3) APPROVAL OF ACTIVITIES.—Whenever the Association is within Level I, II, III or IV, the Association may undertake an activity pursuant to subsections (d), (o), (p) and (q) of section 439 of the Higher Education Act of 1965 only with the approval of the Secretary, as provided in this section.

(c) MANDATORY SUPERVISORY ACTIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL I.—

(1) RESTRICTIONS ON EXPANSION.—

(A) EXPANSION RESULTING IN RECLASSIFICATION.— The Secretary shall not approve or permit—

(i) any investment or other activity subject to approval by the Secretary that would result in reclassification of the Association from Level I to Level II or III, unless the Secretary finds that the transaction substantially improves the financial condition of the Association or is consistent with a capital restoration plan approved by the Secretary; and

(ii) any investment or other activity subject to approval by the Secretary that would result in reclassification to Level IV.

(B) UNSAFE AND UNSOUND PRACTICES OR CONDITION.—The Secretary shall not approve any investment or other activity when the Association is within Level I if the Secretary determines that the Association is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

(2) CAPITAL DISTRIBUTION.—

(A) LIMITATION.—When within Level I, the Association shall make no capital distribution that would cause the Association to be reclassified within Levels III or IV. The Association may make a capital distribution that would cause the Association to be reclassified to Level II, if the Association provides the Secretary with written notice pursuant to section 322(d) and the Secretary has issued a notice of approval.

(B) STANDARDS FOR APPROVAL.—The Secretary shall approve payment of a capital distribution by the Association under this paragraph only if the Secretary determines that the capital distribution will enhance the Association's ability to meet the minimum risk-based capital levels for all relevant capital measures or that the distribution is otherwise in the public interest.

(3) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level I if the Secretary determines in writing that such action is in the public interest.

(d) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL II.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—When within Level II, the Association shall, within the time period provided in subsection (g), submit to the Secretary and, after its acceptance, implement a capital plan that meets the requirements of subsection (g) and will restore the relevant capital measures of the Association to at least the levels required for classification within Level I.

(B) RESTRICTION ON CAPITAL DISTRIBUTION.—

(i) PRIOR APPROVAL REQUIRED.—When within Level II, the Association shall make no capital distribution that would cause the Association to be reclassified within Levels III or IV. When within Level II, the Association shall make no other capital distribution unless the Association receives the prior approval of the Secretary.

(ii) STANDARDS FOR APPROVAL.—The Secretary may approve payment of a capital distribution by the Association within Level II only if the Secretary determines that the capital distribution will enhance the ability of the Association promptly to meet the minimum risk-based capital levels for all relevant capital measures or is otherwise in the public interest.

(C) RESTRICTION ON EXPANSION.—The Secretary shall not approve or permit any investment or other activity subject to approval by the Secretary by the Association within Level II unless the Secretary finds that the transaction furthers achievement of the capital restoration plan approved by the Secretary for the Association.

(D) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Association shall immediately be reclassified from Level II to Level III, and shall be subject to all of the provisions applicable to the Association within Level III, if—

(i) the Association does not submit the capital restoration plan required in subparagraph (A) within the time required by the Secretary; or

(ii) the Secretary is not satisfied that the Association is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the Secretary.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level II if the Secretary determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Secretary, the Secretary may, at any time, based upon a finding that the Association is within Level II—

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, or require contraction of the Association's assets.

(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore the Association to at least the capital levels required for Level I.

(E) RESTRICT ACTIVITIES.—Require the Association to terminate, reduce or alter any activity, if the Secretary determines that the activity creates excessive risk to the Association.

(F) LIMIT EXECUTIVE COMPENSATION.—Require the Association to reduce or eliminate any or all of the following for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the Association following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; and

(iii) any payment that is or would be due under any employment severance contract.

(e) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Unless the Association within Level III has submitted a capital restoration plan acceptable to the Secretary pursuant to subsection (e), it shall, within the time provided under subsection (g), submit to the Secretary and, after its acceptance, implement a capital plan that meets the requirements of subsection (g) and will restore the relevant capital measures of the Association to at least the levels required for classification within Level I.

(B) PROHIBITION ON CAPITAL DISTRIBUTIONS.—When within Level III, the Association shall make no capital distribution.

(C) PROHIBITION ON EXPANSION.—When within Level III, the Association shall not engage directly or indirectly in any new investment or activity.

(D) LIMITATION ON ASSET GROWTH.—

(i) When within Level III, the Association shall not increase its total assets, except as permitted under clause (ii).

(ii) Notwithstanding clause (i), the Secretary may permit the Association within Level III to increase its total assets if—

(I) the Secretary has accepted the Association's capital restoration plan;

(II) any increase in assets is accompanied by an increase in capital in an amount not less than the increase in assets multiplied by the respective relevant capital measures for Level I; and

(III) the Association's capital levels increase at a rate sufficient to enable the Association to satisfy its capital restoration plan within a reasonable time.

(E) LIMITATION ON COMPENSATION.—When within Level III, the Association may not pay to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an

executive officer at the Association following enactment of this Act—

(i) any bonus:

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; or

(iii) any payment that is or would be due under any employment severance contract.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action authorized by this section from the Association within Level III if the Secretary determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTION.—In addition to any other authority of the Secretary, the Secretary may, at any time, take any of the following actions based upon a finding that the Association is within Level III—

(A) DISCRETIONARY SUPERVISORY ACTIONS PERMITTED UNDER LEVEL I OR LEVEL II.—Take any discretionary supervisory action authorized under subsection (e)(3) in connection with the Association within Level III.

(B) LIMIT EXECUTIVE COMPENSATION.—Require the Association to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the Association following enactment of this Act if the Secretary determines the compensation to be excessive.

(C) DISMISS DIRECTORS OR CHIEF OFFICERS.—

(i) Require the Association to dismiss from office at the Association any or all of the following persons if the peson accepted employment, accepted a new position, or renewed any contract for employment in the same position at the Association following enactment of this Act and the person has been employed in that position at the Association for at least 180 days—

(I) any member of the Association's board of directors that was not appointed and is not subject to removal by the President; or

(II) any executive officer.

(ii) The Secretary may notify the President of any director whom the Secretary would have required the Association to dismiss under clause (i) but for the fact that that director was appointed and subject to removal by the President. The Secretary shall include in such notification the grounds for removal of that director.

(iii) Dismissal under clause (i) shall not be construed as removal under section 333 of this Act.

(D) CONSERVATORSHIP.—Appoint a conservator for the Association.

(f) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL IV.—

(1) MANDATORY SUPERVISORY ACTIONS.—The Secretary shall, not later than 30 days after determining that the Association is within Level IV, appoint a conservator for the Association and any such conservator shall have full authority, in its sole discretion, to take any actions authorized under subsections (e) and (f) not inconsistent with the powers of the conservator, and to take any other actions authorized pursuant to the provisions applicable to conservators under the applicable laws.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level IV if the Secretary determines in writing that such action is in the public interest.

(g) CAPITAL RESTORATION PLANS.—

(1) CONTENTS OF PLAN.—A capital restoration plan submitted under this section shall be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the Association to at least the levels required by the subsection pursuant to which the capital restoration plan is ordered. A capital restoration plan must—

(A) specify the levels of capital the Association will achieve and maintain;

(B) describe the steps the Association will take to restore each of its relevant capital measures to the required levels;

(C) establish a schedule for promptly completing the capital restoration plan;

(D) specify the types and levels of activities in which the Association will engage during the pendency of the capital restoration plan;

(E) explain the steps that the Association will take to comply with any mandatory and discretionary requirements imposed under the applicable laws; and

(F) be acceptable to the Secretary.

(2) DEADLINES FOR SUBMISSION OF CAPITAL RESTORATION PLAN.—The Secretary shall by regulation establish deadlines that provide the Association a reasonable period of time, but not more than 30 days, to submit a capital restoration plan acceptable to the Secretary. Such regulation shall provide that the Secretary may extend the deadline to the extent the Secretary determines necessary or appropriate.

(3) AGENCY REVIEW OF CAPITAL RESTORATION PLANS.—The Secretary shall review and act on a capital restoration plan not later than 30 days after the plan is submitted, except that such period may be extended by the Secretary.

(h) JUDICIAL REVIEW OF AGENCY ACTION.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—A person aggrieved by an action of the Secretary under this section may obtain review of that action by filing, within ten days after receiving notice of the Secretary's action, a written petition requesting that the action of the Secretary be modified, terminated or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(C) PERSON AGGRIEVED DEFINED.—A person aggrieved by the action of the Secretary under this section shall mean—

(i) the Association when it is the subject of a mandatory or discretionary supervisory action with respect to a mandatory or discretionary supervisory action taken under this section when the Association is within Levels I, II, and III;

(ii) any person dismissed, with respect to an order under this section for the dismissal of a director of executive officer; and

(iii) any person whose compensation, bonus or severance payment has been reduced or eliminated, with respect to an order under this section reducing or eliminating such payments due an executive officer.

(2) SCOPE OF REVIEW.—Action taken by the Secretary under this section shall be modified, terminated, or set aside only if the court finds, on the record on which the Secretary acted, that the Secretary's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(3) UNAVAILABILITY OF INJUNCTIVE RELIEF.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the Secretary. No court shall have jurisdiction to stay, enjoin or otherwise delay agency action taken under this section pending judicial review of that action.

(4) WITHDRAWAL OF JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or effectiveness of any action of the Secretary under this section or to review, modify, suspend, terminate, or set aside such action.

SEC. 322. REPORTS TO SECRETARY.

(a) REPORTS OF CONDITION; FORM; CONTENTS; DATE OF MAKING.—

(1) REGULAR REPORTS.—The Association shall make to the Secretary quarterly reports of condition which shall be in such form, shall contain such information, and shall be made on such dates as the Secretary shall require.

(2) CERTIFICATION OF REPORTS.—Each report of condition shall contain a declaration by the president, a vice president, the treasurer, or by any other officer designated by the board of directors of the Association to make such declaration, that the report is true and correct to the best of his or her knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the Association other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(b) ADDITIONAL AND SPECIAL REPORTS.—The Secretary may require additional reports, in such form and containing such information as the Secretary may prescribe, on dates to be fixed by the Secretary, and may require special reports however, in the Secretary's judgement, such reports are necessary for the Secretary to carry out the purposes of this title.

(c) PENALTIES.—

(1)(A) FIRST TIER.—If the Association—

(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make any report required under this paragraph, within the period of time specified by the Secretary, or submits any false or misleading report or information, or

(ii) inadvertently transmits any report which is minimally late,

the Association shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected.

(B) The Association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted late.

(2) SECOND TIER.—If the Association fails to make any report required under this section within the period of time specified by the Secretary, or submits any false or misleading report or information in a manner not described in paragraph (1) of this subsection, the Association shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) THIRD TIER.—Notwithstanding paragraph (2), if the Association knowingly or with reckless disregard for the accuracy of any information or report described in such paragraph submits any false or misleading report or information, the Secretary may assess a penalty of not more than $1,000,000 or one percent of total assets of the Association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) ASSESSMENT AND COLLECTION.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary in

the manner provided in section 337 (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

(5) HEARING.—The Association shall be afforded an agency hearing with respect to any penalty assessed under this subsection if the Association submits a written request for such hearing within 20 days after the issuance of the notice of assessment. Section 335 shall apply to any proceeding under this paragraph.

(d) CAPITAL DISTRIBUTIONS.—The Association shall make to the Secretary reports of any capital distributions to be declared or paid in such cases and under such conditions as the Secretary deems necessary, in such form and at such times as the Secretary may require.

SEC. 323. EXAMINATIONS.

(a) APPOINTMENT OF EXAMINERS.—The Secretary shall appoint examiners to examine the Association.

(b) EXAMINATIONS.—Any examiner appointed under subsection (a) shall examine the Association whenever the Secretary determines that an examination is necessary to determine the condition of the Association for the purpose of ensuring its financial safety and soundness.

(c) TECHNICAL EXPERTS.—The Secretary is authorized to contract for the services of such technical experts as the Secretary deems necessary and appropriate to provide temporary technical assistance to any examiner appointed under subsection (a).

(d) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under subsection (a) shall—

(1) have power, on behalf of the Secretary, to make a thorough examination of the Association under subsection (b); and

(2) make a full and detailed report of condition of the Association or affiliate examined to the Secretary.

(e) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with examinations of the Association, the Secretary is authorized to administer oaths and affirmations, to examine, and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of the Association, and to exercise such other powers as are set forth in section 341.

(f) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(1) IN GENERAL.—The Secretary may cause any and all records, papers, or documents kept by the Secretary or in the Secretary's possession or custody to be photographed or microphotographed or otherwise reproduced upon film, in a manner that shall comply with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(2) DEEMED AS ORIGINALS.—Such photographs, microphotographs, or photographic films or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) PRESERVATION.—Such photographs, microphotographs, or reproduction shall be preserved in such manner as the Secretary shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Secretary shall direct.

SEC. 324. SAFE HARBOR.

(a) VOLUNTARY RATINGS.—Upon request from the Association, the Secretary shall contract with two nationally recognized statistical rating organizations—

(1) to assess the likelihood that the Association might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the Association for one year from the effective date of the rating.

(b) QUALIFICATION FOR SAFE HARBOR.—

(1) DETERMINATION BY SECRETARY.—If, after receiving a rating from each statistical rating organization described in subsection (a), the Secretary determines that the Association merits the highest investment grade rating awarded by that organization, the Association shall be deemed, effective for one year following the date of the Secretary's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of section 321.

(2) WRITTEN FINDING REQUIRED.—If—

(A) each statistical rating organization described in subsection (a) assigns the Association the highest investment grade rating awarded by that organization, and

(B) the Secretary fails to make the determination described in paragraph (A),

the Secretary shall make a written finding detailing the reasons for the Secretary's failure to make such determination.

(c) EARLY TERMINATION OF SAFE HARBOR.—Subsection (b) shall cease to apply at such time as any such statistical rating organization described in subsection (a) notifies the Secretary, and the Secretary determines, that the Association no longer merits the highest investment grade rating awarded by that organization. The Secretary shall promptly notify the Association that the Secretary has received the notice described in this subsection.

(d) ASSESSMENT FOR RATINGS.—The Secretary shall impose and collect an assessment on the Association, if it requests ratings under subsection (a), to cover the full cost to the Federal government of obtaining the ratings.

(e) DISCRETIONARY RATINGS.—Nothing in this section shall prevent the Secretary from contracting with any nationally recognized statistical rating organization to rate the Association at any time and for any purpose that the Secretary deems appropriate.

(f) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this section, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rates for broker-dealers.

Subtitle C—General Enforcement Powers

SEC. 331. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Secretary may issue and serve upon the Association or any director or executive officer thereof a notice of charges if, in the opinion of the Secretary, the Association or any director or executive officer of the Association—

(1) is engaging or has engaged, or the Secretary has reasonable cause to believe that the Association, director or executive officer is about to engage, in an unsafe or unsound practice in conducting the business of the Association; or

(2) is violating or has violated, or the Secretary has reasonable cause to believe that the Association or the director or officer is about to violate—

(A) a law, rule, or regulation;

(B) any condition imposed in writing by the Secretary in connection with the granting of any application or other request by the Association; or

(C) any written agreement entered into with the Secretary.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Any notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the Association, director, or executive officer.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Secretary at the request of any party served.

(3) FAILURE TO APPEAR CONSTITUTES CONSENT.-Unless the party or parties so served appear at the hearing personally or by a duly authorized representative, the party or parties shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Secretary finds that any violation of unsafe or unsound practice specified in the notice of charges has been established, the Secretary may issue and serve upon the Association, director, or executive officer an order requiring the Association, director, or executive officer to cease and desist from any such violation or practice and to take affirmative action to correct the condition resulting from any such violation or practice.

(c) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority under this section and section 332 to issue an order which requires the Association, or any director or executive officer thereof, to take affirmative action to correct or remedy any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require the Association, director, or executive officer—

(1) to make restitution or provide reimbursement, indemnification, or guarantee against loss if—

(A) The Association, director, or executive officer was unjustly enriched in connection with such violation or practice; or

(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Secretary;

(2) to restrict the growth of the Association;

(3) to dispose of any asset involved;

(4) to rescind agreements or contracts;

(5) to employ qualified officers or employees (who may be subject to approval by the Secretary at the direction of the Secretary); and

(6) to take such other action as the Secretary determines appropriate.

(d) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 332 includes the authority to place limitations on the activities or functions of the Association, or any director or executive officer thereof.

(e) EFFECTIVE DATE.—A cease-and-desist order shall become effective at the expiration of 30 days after the service of such order

upon the Association, director, or executive officer (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Secretary or a court of competent jurisdiction.

SEC. 332. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE; SCOPE.—Whenever the Secretary determines that any violation, threatened violation, or unsafe or unsound practice specified in the notice of charges served upon the Association, director, or executive officer pursuant to subsection (a) of section 331, or the continuation thereof, is likely—

(1) to cause insolvency or significant dissipation of assets or earnings of the Association, or

(2) to weaken the condition of the Association prior to the completion of the proceedings conducted pursuant to subsection (b) of section 331,

The Secretary may issue a temporary order requiring the Association, or any director or executive officer thereof to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, or condition pending completion of such proceedings. Such order may include any requirement authorized under subsection (c) or section 331.

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the Association, director, or executive officer and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d), shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Secretary dismisses the charges specified in such notice or until superseded by a cease-and-desist order issued pursuant to section 331.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under subsection (a) of section 331 specifies that the Association's books and records are so incomplete or inaccurate that the Secretary is unable, through the normal supervisory process, to determine the financial condition of the Association or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of the Association, the Secretary may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 331.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings under subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 331 in connection with the notice of charges; or

(ii) the date the Secretary determines, by examination or otherwise, that the Association's books and records are accurate and reflect the financial condition of the Association.

(d) JUDICIAL REVIEW.—Within 10 days after the Association, director, or executive officer has been served with a temporary cease-and-desist order pursuant to this section, the Association, or any director or executive officer thereof, may apply to the United States District Court for the District of Columbia, which court shall have jurisdiction to issue an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the Association, director, or executive officer under subsection (a) of section 331.

(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Secretary may, with the prior consent of the Attorney General and subject to the attorney General's direction and control, apply to the United States District Court for the District of Columbia for an injunction to enforce the order, and, if the court finds any such violation or threatened violation or failure to obey, it shall issue such injunction.

SEC. 333. REMOVAL AND PROHIBITION AUTHORITY.

(a) AUTHORITY TO ISSUE ORDER.—The Secretary may serve upon any director (other than a director appointed and subject to removal by the President) or executive officer of the Association a written notice of the Secretary's intention to remove such director or executive officer from office or to prohibit any further participation by such director or executive officer, in any manner, in the conduct of the affairs of the Association, whenever the Secretary determines that—

(1) such director or executive officer has directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by the Secretary in connection with the grant of any application or other request by the Association; or

(iv) any written agreement between the Association and the Secretary;

(B) engaged or participated in any unsafe or unsound practice in connection with the Association; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of such director's of officer's fiduciary duty;

(2) by reason of the violation, practice, or breach described in any clause of paragraph (1)—

(A) the Association has suffered or will probably suffer financial loss or other damage; or

(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such director or executive officer; or

(B) demonstrates willful or continuing disregard by such director or executive officer for the safety or soundness of the Association.

(b) SUSPENSION ORDER.—

(1) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Secretary serves written notice under subsection (a) to any director or executive officer of the Association, the Secretary may suspend the director or executive officer from office or prohibit the director or executive officer from further participation in any manner in the conduct of the affairs of the Association, if the Secretary—

(A) determines that such action is necessary for the protection of the Association; and

(B) serves upon such director or officer written notice of the suspension order.

(2) EFFECTIVE PERIOD.—Any suspension order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

(i) the date the Secretary dismisses the charges with respect to such director or executive officer; or

(ii) the effective date of an order issued by the Secretary to the director or executive officer under subsection (a).

(3) COPY OF ORDER.—If the Secretary issues a suspension order under subsection (b) to any director or executive officer of the Association, the Secretary shall serve a copy of such order on the Association at the time such order is issued.

(c) PROCEDURE.—

(1) NOTICE.—A notice of intention to remove a director or executive officer of the Association from office or to prohibit such director or executive officer from participating in the conduct of the affairs of the Association shall contain a statement of the facts constituting grounds therefore and shall fix a time and place at which a hearing will be held thereon.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Secretary at the request of such party and for good cause shown, or the Attorney General of the United States.

(3) FAILURE TO APPEAR DEEMED CONSENT.—Unless such party appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order or such removal or prohibition.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if upon the record made at any such hearing, the Secretary finds that any of the grounds specified in such notice have been established, the Secretary may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the Association, as the Secretary may deem appropriate.

(d) EFFECTIVE DATE.—Any such order shall become effective at the expiration of 30 days after service upon the Association and the director or executive officer (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Secretary or a court of competent jurisdiction.

(e) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

(1) participate in any manner in the conduct of the affairs of any institution or agency specified in subsection (f)(1);

(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (1);

(3) violate any voting agreement previously approved by the Secretary; or

(4) vote for a director, or serve or act as a director or executive officer of the Association.

(f) INDUSTRYWIDE PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any director or executive officer who, pursuant to an order issued under this section or section 334, has been removed or suspended from office in the Association or prohibited from participating in the conduct of the affairs of the Association may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

(A) a guaranty agency as defined in section 435(j) of the Higher Education Act;

(B) any insured depository institution as defined in section 2(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(C) any depository institution or institution treated as an insured bank under section 8 (b)(3) or (b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (b)(3), (b)(4)), or as a savings association under subsection (b)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(8));

(D) any insured credit union as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752);

(E) any institution chartered under the Farm Credit Act of 1971;

(F) the Federal Housing Finance Board and any Federal home loan bank;

(G) the Federal National Mortgage Association;

(H) The Federal Home Loan Mortgage Corporation;

(I) any appropriate Federal Depository institutions regulatory agency; and

(J) the appropriate Trust Corporation.

(2) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any director or executive officer or prohibits such director or executive officer from participating in the conduct of the affairs of the Association, such party receives the written consent of—

(A) the Secretary, and

(B) the appropriate Federal financial institutions regulatory agency of the institution described in paragraph (1) in which such director or executive officer proposes to hold office or in the conduct of whose affairs the director or executive officer proposes to participate,

paragraph (1) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. Any agency that grants such a written consent shall report such action to the Secretary and publicly disclose such consent.

(3) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by a director or executive officer subject to an order described in paragraph (1) shall be treated as a violation of the order.

(4) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "appropriate Federal financial institutions regulatory agency" means—

(A) the Secretary of Education, in the case of a guaranty agency as defined in section 435(j) of the Higher Education Act;

(B) the Office of Government-Sponsored Enterprise Financial Oversight, in the case of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(C) the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of an insured depository institution;

(D) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

(E) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

(F) the Secretary, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

(G) the Oversight Board, in the case of the Resolution Trust Corporation.

(5) CONSULTATION BETWEEN AGENCIES.—The agencies described in paragraph (2) shall consult with each other before providing any written consent authorized by paragraph (2).

(g) STAY OF SUSPENSION OR PROHIBITION.—Within ten days after any director or executive officer of the Association has been suspended from office or prohibited from participation in the conduct of the affairs of the Association under subsection (b), the director or executive officer may apply to the United States District Court for the District of Columbia which court shall have jurisdiction to a stay of such suspension or prohibition pending completion of the administrative proceedings pursuant to the notice served upon such director or executive officer under subsection (a).

(h) DIRECTORS APPOINTED BY THE PRESIDENT.—The Secretary may notify the President of any director of the Association on whom the Secretary would have served a notice of intention to remove the director or to prohibit the director from participating in the conduct of the affairs of the enterprise under subsection (a) but for the fact that that director was appointed and subject to removal by the President. The Secretary shall include in such notice the grounds for issuance of the notice of intention.

SEC. 334. SUSPENSION OR REMOVAL OF DIRECTOR OR EXECUTIVE OFFICER CHARGED WITH FELONY.

(a) SUSPENSION.—Whenever any director or executive officer is charged in any information, indictment, or complaint with the commission of, or participation in, a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Secretary may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the Association, by written notice served upon such director or executive officer, suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the Association. A copy of such notice shall also be served upon the Association.

(b) EFFECTIVE PERIOD.—Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Secretary.

(c) REMOVAL.—In the event a conviction or an agreement to enter a pre-trial diversion or other similar program is entered against such director or executive officer, and at such time as such judgment is not subject to further appellate review, the Secretary may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the Association, issue and serve upon such director or executive officer an order removing him or her from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the Association except with the consent of the Secretary. A copy of such order shall also be served upon the Association, whereupon such director or executive officer shall cease to be a director or executive officer of the Association.

(d) DISCRETIONARY REMOVAL NOT PRECLUDED.—A finding of not guilty or other disposition of the charge shall not preclude the Secretary from thereafter instituting proceedings to remove such director or executive officer from office or to prohibit further participation in Association affairs pursuant to subsection (a) or (b) of section 333.

(e) EFFECTIVE DATE.—Any notice of suspension or order of removal issued under this section shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (g) unless terminated by the Secretary.

(f) VACANCIES ON THE BOARD OF DIRECTORS.—

(1) QUORUM.—If, at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of the Association less than a quorum, all powers and functions vested in, or exercisable by, such board shall vest in and be exercisable by the remaining director of directors, until such time as there shall be a quorum of the board of directors.

(2) ALL DIRECTORS SUSPENDED.—In the event all of the directors of the Association are suspended pursuant to this section, the Secretary shall appoint temporary directors pending the termination of such suspensions, or until such time as the terms of the suspended directors expire and their successors take office.

(g) HEARING.—

(1) REQUEST FOR HEARING.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to subsection (a), the director or executive officer concerned may request in writing an opportunity to appear before the Secretary to show that the continued service to or participation in the conduct of the affairs of the Association by such director or executive officer does not, or is not likely to, threaten to impair public confidence in the Association.

(2) TIME AND PLACE OF HEARING.—Upon receipt of any such request, the Secretary shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such director or executive officer) and place at which such director or executive officer may appear, personally or through a representative, before the Secretary to submit written materials (or, at the discretion of the Secretary, oral testimony) and oral argument.

(3) DECISION OF THE SECRETARY.—Within 60 days of such hearing, the Secretary shall notify such director or executive officer whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the Association will be continued, terminated, or otherwise modified, or whether the order removing such director or executive director from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the Association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Secretary's decision, if adverse to such director or executive officer.

(h) RULEMAKING.—The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 335. HEARINGS AND JUDICIAL REVIEW.

(a) Any hearing provided for in this subtitle (other than the hearing provided for in section 334)—

(1) shall be held in the District of Columbia unless the party afforded the hearing consents to another place, and

(2) shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code (5 U.S.C. 500 et seq.).

(b)(1) After such hearing, and within 90 days after the Secretary has notified the parties that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) Judicial review of any such order shall be exclusively as provided in subsection (c). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (c), and thereafter until the record in the proceeding has been filed as so provided, the Secretary is authorized to modify, terminate, or set aside any such order. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

(c)(1) Any party to any proceeding under subsection (a) may obtain a review of any order served pursuant thereto (other than an order issued with the consent of the Association, director, or executive officer concerned, or an order issued under section 334) by the filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. A copy of such petition shall be transmitted by the clerk of the court to the Secretary.

(2) Upon receiving a copy of the petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of subsection (b)(2)) be exclusive to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(4) Review of such proceedings shall be governed by chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(d) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

SEC. 336. JURISDICTION AND ENFORCEMENT.

(a) APPLICATION FOR ENFORCEMENT.—The Secretary may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States District Court for the District of Columbia for the enforcement of any effective and outstanding notice or order issued under this subtitle or section 321 of subtitle B, and such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION OR MODIFICATION.—Except as otherwise provided in this subtitle no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 337. CIVIL MONEY PENALTY.

(a) FIRST TIER.—If the Association or a director or executive officer of the Association—

(1) violates any law or regulation,

(2) violates any final order or temporary order issued pursuant to section 331, 332, 333, or 334, or section 321 of subtitle B,

(3) violates any condition imposed in writing by the Secretary in connection with the grant of any application or other request by the Association, or

(4) violates any written agreement between the Association and the Secretary,

the Association, director, or executive officer shall be subject to a civil penalty of not more than $5,000 for each day during which such violation continues.

(b) SECOND TIER.—Notwithstanding subsection (a), if the Association or a director or executive officer of the Association—

(1)(A) commits any violation described in subsection (a),

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of the Association, or

(C) breaches any fiduciary duty, and

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct,

(B) causes or is likely to cause more than a minimal loss to the Association, or

(C) results in pecuniary gain or other benefit to such party,

the Association, director, or executive officer shall be subject to a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

(c) THIRD TIER.—Notwithstanding subsections (a) and (b), if the Association or a director or executive officer of the Association—

(1) knowingly—

(A) commits any violation described in subsection (a),

(B) engages in any unsafe or unsound practice in conducting the affairs of the Association, or

(C) breaches any fiduciary duty, and

(2) knowingly or recklessly causes a substantial loss to the Association or a substantial pecuniary gain or other benefit to such director or executive officer by reason of such violation, practice, or breach,

the Association, director, or executive officer shall be subject to a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

(d) MAXIMUM AMOUNTS OF PENALTIES.—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any director or executive officer, an amount not to exceed $1,000,000; and

(2) in the case of the Association, an amount not to exceed the lesser of—

(A) $1,000,000, or

(B) one percent of the total assets of the Association.

(e) ASSESSMENT.—

(1) WRITTEN NOTICE.—Any penalty imposed under this section may be assessed and collected by the Secretary by written notice.

(2) FINALITY OF ASSESSMENT.—If a hearing is not timely requested pursuant to subsection (h), the assessment shall constitute a final and unappealable order.

(f) AUTHORITY TO MODIFY OR REMIT PENALTY.—

(1) PRIOR TO COLLECTION ACTION.—Prior to initiation of an action pursuant to subsection (i)(1), the Secretary may compromise, modify, or remit any penalty which is or may be assessed in this section.

(2) AFTER INITIATION OF COLLECTION ACTION.—Following the initiation of an action pursuant to subsection (i)(1), the Secretary may compromise, modify, or remit any penalty which is or may be assessed under this section with the prior consent of the Attorney General.

(g) MITIGATING FACTORS.—In determining the amount of any penalty imposed under this section, the Secretary shall take into account the appropriateness of the penalty with respect to—

(1) the size of financial resources and good faith of the Association, director or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(h) HEARING.—The Association, director or executive officer against whom any penalty is assessed under this section shall be afforded an agency hearing if the Association, director or executive director submits a request for such hearing within 20 days after the issuance of the notice of assessment. A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to this subsection.

(i) COLLECTION.—

(1) REFERRAL.—If the Association, director or executive officer fails to pay a penalty that has become final, the Secretary shall, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, recover the amount assessed by action in the appropriate United States district court.

(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any action brought under paragraph (1), the validity and appropriateness of the penalty shall not be subject to review.

(j) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(k) REGULATIONS.—The Secretary shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

SEC. 338. NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer (including a separation caused by the closing of the Association) shall not affect the jurisdiction and authority of the Secretary to issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the six year period beginning on the date such director or executive officer ceased to be associated with the Association.

SEC. 339. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Secretary may by regulation or otherwise provide.

SEC. 340. SUBPOENA POWER, ETC.

(a) POWERS.—In the course of or in connection with any administrative proceeding under this subtitle, or in connection with

any examination or investigation under section 324, the Secretary or any designated representative thereof, including any person designated to conduct any hearing under this title, shall have the power—

(1) to administer oaths and affirmations,

(2) to take or cause to be taken depositions,

(3) to issue subpoenas and subpoenas duces tecum, and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(b) RULEMAKING AUTHORITY.—The Secretary is authorized to promulgate such rules and regulations as the Secretary determines necessary or appropriate with respect to proceedings, claims, examinations, or investigations.

(c) ENFORCEMENT.—The Secretary, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, or any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States District Court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by the Association or a director or executive officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the Association or from its assets.

SEC. 341. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Secretary shall publish and make available to the public—

(1) any written agreement or other written statement for which a violation may be enforced by the Secretary, unless the Secretary determines that publication would be contrary to the public interest;

(2) any final order issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subtitle or any other provision of law; and

(3) any modification to or termination of any final order or agreement made public pursuant to this paragraph.

(b) TRANSCRIPTS OF HEARINGS.—A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

(c) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Secretary determines in writing that the publication of any final order pursuant to subsection (a) would seriously threaten the safety or soundness of the Association, the Secretary may delay the publication of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Secretary may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Secretary if, as determined by the Secretary in writing, disclosure of the document would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Secretary shall keep and maintain a record, for not less than six years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceedings initiated by the Secretary under this subtitle or any other laws.

(f) DISCLOSURES TO CONGRESS.—No provision of this subsection may be construed to authorize the withholding or to prohibit the disclosure of any information to the Congress or any committee or subcommittee thereof.

Subtitle D—Conservatorship

SEC. 351. APPOINTMENT OF CONSERVATOR.

(a) APPOINTMENT.—The Secretary shall have exclusive power and jurisdiction, without notice or prior hearing, to appoint a conservator, which may be the Secretary, to take possession and control of the Association whenever the Secretary determines that—

(1) the Association is not likely to be able to pay its obligations in the normal course of business;

(2) the Association is an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

(3)(A) the Association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

(B) there is no reasonable prospect for the Association's capital to be replenished without Federal assistance;

(4) there is any violation of law, rule, or regulation, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the Association's condition;

(5) there is concealment of books, papers, records, or assets of the Association, or refusal to submit books, papers, records, or affairs of the Association for inspection to any examiner or to any lawful agent of the Secretary;

(6) there is willful or continuing violation of an order enforceable against the Association under section 203; or

(7) the Association is classified within Level III or Level IV by the Secretary pursuant to section 321 of subtitle B.

(b) JUDICIAL REVIEW.—

(1) IN GENERAL.—

(A) Not later than 20 days after the initial appointment of a conservator pursuant to this section, the Association may bring an action in the United States District Court for the District of Columbia for an order requiring the Secretary to terminate the appointment of the conservator.

(B) The Secretary's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) STAY.—

(A) IN GENERAL.—The conservator may request that any judicial action or proceeding to which the conservator or the Association is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(B) SECRETARY OR FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator is the Secretary, a Federal agency, or an employee of the Federal Government, the conservator may make a request described in paragraph (a) only with the prior consent of the Attorney General and subject to the Attorney General's direction and control.

(3) ACTIONS AND ORDERS.—

(A) LIMITATION ON REMEDIES.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator.

(B) ENFORCEMENT OF ORDERS.—The Secretary, with the prior consent of Attorney General and subject to the Attorney General's direction and control, may apply to a court, which shall have jurisdiction to enforce an order of the Secretary relating to—

(i) the conservatorship and the Association in conservatorship; or

(ii) restraining or affecting the exercise of powers or functions of a conservator.

(c) APPOINTMENT BY CONSENT.—The Secretary may appoint a conservator for the Association if the Association, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(d) POWERS OF CONSERVATOR.—

(1) The Secretary shall have exclusive power and jurisdiction to appoint a conservator for the Association. As conservator, the Secretary shall have all the powers granted under the applicable law, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators under this subtitle and any other provision of law.

(2) Any other person appointed conservator shall be subject to the provisions of this subtitle.

(e) REPLACEMENT OF CONSERVATOR.—The Secretary may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the Association's right under subsection (b) to obtain judicial review of the Secretary's original decision to appoint a conservator.

SEC. 352. EXAMINATIONS.

The Secretary is authorized to examine and supervise the Association in conservatorship as long as the Association continues to operate as a going concern.

SEC. 353. TERMINATION OF CONSERVATORSHIP.

(a) IN GENERAL.—At any time the Secretary becomes satisfied that it may safely be done and that it would be the public interest, the Secretary may terminate the conservatorship and permit the Association to resume the transaction of its business subject to such terms, conditions, and limitations as the Secretary may prescribe.

(b) ENFORCEMENT AS FINAL CEASE-AND-DESIST ORDER.—

(1) Such terms, conditions, and limitations as may be prescribed under subsection (a) shall be enforceable under the provisions of section 336, to the same extent as an order issued pursuant to section 331 which has become final.

(2) The Association may bring an action in the United States District Court for the District of Columbia for an order requiring the Secretary to terminate the order.

(3) An action for judicial review of the terms, conditions, and limitations contained in any order may not be commenced later

than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

SEC. 354. CONSERVATOR; POWERS AND DUTIES.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the Association and may operate the Association in its own name unless the Secretary in the order of appointment limits the conservator's authority.

(b) SUBJECT TO RULES OF SECRETARY.—The conservator shall be subject to such rules, regulations, and orders as the Secretary from time to time deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders in section 354, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to director, officers, or employees of the Association.

(c) PAYMENT OF CREDITORS.—The Secretary may require the conservator to set aside and make available for payment to creditors such amounts as in the opinion of the Secretary may safely be used for that purpose. All creditors who are similarly situated shall be treated in the same manner.

(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—The conservator (other than the Secretary) and professional employees (other than Federal government employees) appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Secretary may authorize payment of higher rates (but not in excess of rates prevailing in the private sector), if the Secretary determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the Association and shall be a lien upon the Association which shall have priority over any other lien.

SEC. 355. LIABILITY PROTECTION.

(a) FEDERAL AGENCY AND EMPLOYEES.—In any case which the conservator is a Federal agency or an employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code (28 U.S.C. 2401 et seq., 2671 et seq.), shall apply within respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) INDEMNIFICATION.—The Secretary, with the approval of the Attorney General, shall have authority to indemnify the conservator on such terms as the Secretary deems proper.

SEC. 356. POWERS OF OFFICERS NOT AFFECTED.

Nothing is this subtitle shall be construed to impair any powers of the President, the Secretary, or the Attorney General.

SEC. 357. RULES AND REGULATIONS.

The Secretary may prescribe such rules and regulations as the Secretary may deem necessary to carry out the provisions of this subtitle.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

SEC. 401. JURISDICTION.

(a) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—Chapter 91 of title 28, United States Code, is amended—

(1) by adding after section 1505 the following new section:

"SEC. 1510. JURISDICTION FOR CERTAIN CLAIMS AGAINST APPROPRIATE FEDERAL REGULATORY AGENCIES.

"The United States Claims Court shall have exclusive jurisdiction to render judgment upon any claim for damages against the United States by any person who has petitioned for judicial review of an action of the Director of the Office of Government-Sponsored Enterprises Financial Oversight or the Secretary of the Treasury pursuant, respectively, to sections 131(h) and 321(h) of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, where such action has been, at the conclusion of judicial review proceedings, modified, terminated or set aside by a court of competent jurisdiction. The claim shall be limited to actual damages caused by the action taken by the Director or Secretary that has been modified, terminated or set aside, and shall be filed within 10 days of the final order granting the relief sought in the petition."; and

(2) in the table of sections, by inserting after the item relating to section 1509 the following new item:

"1510. Jurisdiction for certain claims against appropriate Federal regulatory agencies.".

(b) WITHDRAWAL OF JURISDICTION.—Except as provided in section 1510 of title 28, United State Code, no court shall have jurisdiction to hear a claim for damages for agency action under this section.

TITLE V—FARM CREDIT SYSTEM

Subtitle A—Improvements to Farm Credit System Safety and Soundness

SEC. 501. CLARIFICATION OF FUNDING CORPORATION AUTHORITY.

Section 4.9(b) of the Farm Credit Act of 1971 (12 U.S.C. 2160) is amended—

(1) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) shall have the authority, in connection with its duty to establish conditions of participation pursuant to paragraph (2), to gather information from, and monitor the financial condition and performance of, System banks and their related associations, to establish and impose economic incentives designed to encourage compliance with such standards; and"; and

(2) by inserting after paragraph (4) the following: "The economic incentives permitted pursuant to this section may include differential pricing of joint, consolidated or System-wide obligations to the individual banks by the Corporation, premiums imposed by the Corporation on banks that fail to meet established financial condition and performance standards, or such other economic incentives as may be determined appropriate by the board of directors of the Corporation. On behalf of the banks, the Corporation shall be authorized under paragraph (1) to collect, invest, and otherwise handle the flow of funds resulting from the establishment of any such economic incentives.".

SEC. 502. ACCESS TO ASSOCIATION CAPITAL.

Section 5.61(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-10(a)(2)) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO CAPITAL.—Whenever assistance has been provided to any System bank under subsections (a)(1) or (a)(2)(A), the Corporation, in its sole discretion, may determine the amount of additional stock in the bank to be subscribed for by the association stockholders and borrowers from the bank in order to provide capital to meet the capital requirements of section 4.3. The determined amount shall be allocated to each association so that the ratio of—

"(i) such association's stock currently owned plus its additional required subscriptions divided by the total stock currently owned by all associations plus the total required subscriptions of all associations, is equal to the ratio of—

"(ii) the average indebtedness of such association to the bank during the immediate past three fiscal years divided by the average of the total indebtedness to the bank of all associations during such three-year period.

"Any stock required to be purchased under this subsection may be retired, provided that any assistance provided by the Corporation is repaid or any obligation to the Corporation under subsections (a)(1) or (a)(2)(A) is extinguished.

"(D) CONTRIBUTIONS TO INSURANCE FUND.—Whenever the Corporation uses funds of the Insurance Fund pursuant to section 5.60(c)(1), the Corporation, in its sole discretion, may determine the amount of funds to be contributed to the Insurance Fund by the association stockholders and borrowers of the bank whose obligations the Corporation repaid. The determined amount shall be allocated to each association so that the ratio of—

"(i) such association's stock currently owned plus its additional contribution to the Fund divided by the total stock currently owned by all associations plus the total additional contributions to the Fund of all associations, is equal to the ratio of—

"(ii) the average indebtedness of such association to the bank during the immediate past three fiscal years divided by the average of the total indebtedness to the bank of all associations during such three-year period.".

SEC. 503. ENHANCED SUPERVISION OVER FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.11(a)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-11(a)(1)) is amended to read as follows:

"(1) AUTHORITY.—Notwithstanding any other provision of law, the Farm Credit Administration shall have the authority to—

"(A) provide for the examination of the Corporation and its affiliates; and

"(B) provide for the general supervision of the safe and sound performance of the powers, functions and duties vested in the Corporation and its affiliates by this title through the use of the authorities granted to the Farm Credit Administration under section 5.17(a)(9) and part C of title V.".

Subtitle B—Farm Credit System Insurance Corporation

SEC. 511. BOARD OF DIRECTORS.

Section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-2) is amended to read as follows:

"SEC 5.53. BOARD OF DIRECTORS.

"The Corporation shall have five members. The three voting members, each of whom shall have a financial background and expertise, shall be appointed by the President. The two non-voting members shall be one member of the board of directors of the Farm Credit Administration other than the Chairman, and the Secretary of Agriculture.".

SEC. 512. RISK-BASED INSURANCE PREMIUMS.

Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e) respectively; and by inserting after subsection (a) the following new subsection:

"(b) Within one year of enactment of this subsection the Corporation shall develop and publish a risk-based premium structure, permitting differential premiums based on the relative financial condition of banks, to supersede the premium structure contained in subsection (a)(2).".

SEC. 513. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

Section 5.58(2) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-7(2)) is amended by adding at the end thereof the following:

"The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying such institutions as eligible to issue preferred stock pursuant to title VI.".

Subtitle C—Farm Credit System Consolidation

SEC. 521. CONSOLIDATION OF DISTRICT BANKS.

Section 1.2(b) of the Farm Credit Act of 1971 (12 U.S.C. 2002(b)) is amended to read as follows:

"(b) FARM CREDIT DISTRICTS.—

"(1) Pursuant to the provisions contained in section 302 of the Farm Credit System Financial Safety and Soundness Act of 1991, the farm credit districts in the United States shall be consolidated so as to ensure adequate geographic and crop-based diversity. Such districts, one of which shall include the Commonwealth of Puerto Rico and one of which may, if authorized by the Farm Credit Administration, include the Virgin Islands of the United States, may be designated by number.

"(2) The extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration.

"(3) The boundaries of Farm Credit districts may be readjusted from time to time by the Farm Credit Administration, with the concurrence of the boards of the bank in each district involved.

"(4) Two or more districts may be merged as provided in section 5.17(a)(2) of this Act.

"(5) Until the effective date of the consolidation of farm credit districts pursuant to the Farm Credit System Financial Safety and Soundness Act of 1991, there shall be not more than 12 farm credit districts in the United States, which may be designated by number, one of which districts shall include the Commonwealth of Puerto Rico and one of which districts may, if authorized by the Farm Credit Administration, include the Virgin Islands of the United States.".

SEC. 552. TERMS OF CONSOLIDATION.

(a) IN GENERAL.—Notwithstanding the provisions of section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)), the Farm Credit Bank of each farm credit district and the Federal Intermediate Credit Bank of Jackson shall consolidate pursuant to a consolidation plan agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration or, if such banks fail to agree, a consolidation plan prescribed by the Farm Credit Administration. Such consolidation plan will ensure that each district has adequate geographic and crop-based diversity.

(b) SPECIAL COMMITTEE.—Within 60 days of the date of enactment of this title, a special committee, composed of one member elected from each Farm Credit Bank and the Federal Intermediate Credit Bank of Jackson, shall be established for the purpose of developing a consolidation plan of all such banks.

(c) SUBMISSION TO FCA.—Within 18 months of the date of enactment of this title, the special committee established pursuant to subsection (b) shall submit to the Farm Credit Administration a consolidation plan, together with all information considered necessary by the Farm Credit Administration, for approval.

(d) EXPEDITED REVIEW.—Within 90 days of receipt of the consolidation plan, the Farm Credit Administration shall review such plan and provide the special committee with any changes required to be made to the plan. The special committee shall promptly incorporate all such changes into the plan.

(e) FCA MANDATORY PLAN.—If within 2 years of the date of enactment of this title, the special committee has failed to comply with the requirements contained in either subsection (c) or (d), the Farm Credit Administration shall prescribe a consolidation plan for the Farm Credit Banks of each Farm Credit System district and the Federal Intermediate Credit Bank of Jackson.

(f) CAPITAL STOCK.—Notwithstanding section 1.6 of the Farm Credit Act of 1971 (12 U.S.C. 2014), the number of shares of capital stock issued by the consolidated banks to stockholders and other owners of the institutions involved in the consolidation, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the consolidation plan approved by the Farm Credit Administration, and shall be consistent with section 4.3A of the Farm Credit Act of 1971 (12 U.S.C. 2154a) and the regulations issued by the Farm Credit Administration.

(g) INITIAL BOARD.—Notwithstanding section 1.4 of the Farm Credit Act of 1971 (12 U.S.C. 2012), and subject to Farm Credit Administration approval, the initial board(s) of the consolidated banks shall include the chairman of each farm credit district bank at the time of the consolidation. Such initial board(s) shall operate for such term as is agreed to by the members of the board(s) and approved by the Farm Credit Administration, except that such period shall not exceed two years. Thereafter, the board(s) shall be elected and serve in accordance with section 1.4 of the Farm Credit Act of 1971 (12 U.S.C. 2012).

(h) TECHNICAL AMENDMENT.—Effective upon completion of the consolidation required by this section, section 1.2(b)(5) of the Farm Credit Act of 1971 is repealed.

Subtitle C—Repayment of Financial Assistance Corporation Debt Obligations

SEC. 531. REPAYMENT OF TREASURY INTEREST PAYMENTS.

(a) Section 6.26 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) PREPAYMENT OF PRINCIPAL AND INTEREST PAYMENT.—Any System institution required to make payments under this section may pay any amount toward satisfaction prior to the due date of such obligation into the Farm Credit Assistance Fund. Such payments and any interest thereon shall be held and used by the Financial Assistance Corporation only for the purpose of satisfying the obligations of the payor under this section.";

(2) in subsection (C)(5)(A), by striking out", on a fair and equitable basis,";

(3) in subsection (c)(5)(B), by striking "when the Farm Credit Administration," and all that follows through "have been fully repaid." and adding the following: "on the maturity of each obligation issued under subsection (a). Each System institution shall pay a portion of the total amount of such interest charges equal to—

"(i) the average performing loan volume of the institution for the preceding 15 years, divided by

"(ii) the average performing loan volume of all of the System institutions for the same period.";

(4) by striking subsection (c)(5)(C);

(5) in subsection (d)(1)(C), by striking "under section 6.7(a)" and inserting instead "or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively,";

(6) in subsection (d)(3)(A)(i), by inserting "or upon maturity of an obligation for repayment of interest to the Secretary of the Treasury," after "subsection (a) of this section,"; and

(7) in the second sentence of subsection (d)(3)(B)(iii), by striking "such stock" and inserting instead "the amount of such stock needed to meet the capital requirements established under section 4.3 of this Act after January 1, 1993 through the maturity of the obligations of the Financial Assistance Corporation financing the purchase of such stock.".

(b) Section 6.28(b) of the Farm Credit Act of 1971 (12 U.S.C. 2278b-8) is amended to read as follows:

"(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF TREASURY.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) of this section shall be repaid by System institutions in accordance with section 6.26(c)(5) of this Act.".

SEC. 532. CAPITAL PRESERVATION ASSISTANCE.

Section 6.9 of the Farm Credit Act of 1971 (12 U.S.C. 2278a-9) is amended by striking subsection (e)(3)(D).

Subtitle D—Farm Credit System Bank and Institution Management

SEC. 541. BOARDS OF DIRECTORS.

Sections 1.4, 2.1, and 2.11 of the Farm Credit Act of 1971 (12 U.S.C. 2012, 2072 and 2092) are each amended by striking "one member" wherever it appears and inserting instead "one-third of the members".

SECTION-BY-SECTION ANALYSIS OF GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

The primary purpose of Title I of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991 (the "Act") is to establish a system of regulation of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") that embodies the following principles developed in the 1991 Report of the Secretary of the Treasury on Government-Sponsored Enterprises—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of FNMA and FHLMC;

(2) the regulator should have sufficient stature to maintain independence from FNMA, FHLMC and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the fi-

nancial safety and soundness of FNMA and FHLMC; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules so established.

Title I creates a new separate, arms-length bureau within the Department of Housing and Urban Development ("HUD") that will be responsible for assuring the financial safety and soundness of FNMA and FHLMC. The new bureau, to be known as the Office of Government-Sponsored Enterprise Financial Oversight (the "Office"), will become effective January 1, 1992.

Section 102 is a definitional section. The term "Director" is defined to mean the Director of the Office. The term "enterprise" means the FNMA and FHLMC and any affiliates they may be authorized to establish. The term "Secretary" means the Secretary of HUD. The terms "capital", "capital distribution", "compensation", "executive officer", and "new program" are also defined.

Section 112 provides for the appointment of the Director by the President with the advice and consent of the Senate. The Director serves for a term of five years. Vacancies are to be filled in the same manner as appointments. The Director is authorized to designate who shall act as Director if the Director dies, resigns, or is sick or absent. If the Director does not make such a designation, the Secretary of HUD shall make the designation.

Section 113 amends section 5314 of Title 5 of the United States Code to provide that the Director shall be compensated at Level III of the Executive Service.

Section 114 provides that certain actions of the Director shall be within the exclusive authority of the Director. These actions include case-specific determinations and actions regarding the denial for reasons of safety and soundness of any request for approval of the Director under applicable law or regulations, examinations, decisions to appoint a conservator, and any enforcement action. The Director may nevertheless consult with the Secretary on any matter, including those described above. All other authority vested in the Director, including the authority to adopt rules and regulations, shall be exercised by the Director subject to the review and approval of the Secretary. The section also expressly provides that the Director may delegate any of the Director's authority to any employee, representative or agent of the Office.

Section 115 authorizes the Director to appoint all employees of the Office and fix their compensation.

Section 116 provides the Director with broad authority to issue such regulations and orders as are necessary or appropriate to carry out any law within the Director's jurisdiction. Any regulations promulgated by the Director are to be exempt from the provisions of section 3535(o) of title 42 of the United States Code, which requires the Secretary of HUD to notify certain Congressional committees prior to publication of any proposed or final rules.

Section 117 contains certain conforming amendments to the Federal National Mortgage Association Charter Act (the "Charter Act") to reflect the new grant of authority to the Director to supervise the safety and soundness of FNMA and to coordinate such authority with certain programmatic authority retained by the Secretary. Section 117 amends section 303 of the Charter Act to delete the requirement that the Secretary approve any requirement imposed by FNMA on mortgage sellers to make capital contributions to FNMA. Since the purpose of such a requirement is to accumulate funds for FNMA's capital surplus, this requirement relates to financial safety and soundness and therefore should be taken into account by the Director in establishing and enforcing capital standards for FNMA.

Section 304(b) of the Charter Act is amended by deleting language that limits FNMA outstanding unsecured debt to 15 times FNMA's capital, capital surplus, general surplus, reserves and undistributed earnings unless the Secretary of HUD sets a higher ratio. A sentence limiting unsecured debt to an amount equal to the amount of unencumbered mortgages and certain other liquid investments is also deleted. Both of these provisions impose capital restraints on FNMA that should no longer be necessary given the authority granted to the Director to establish relevant capital measures for FNMA.

Section 304(b) of the Charter Act is further amended to require FNMA also to obtain the approval of the Director whenever it must under current law obtain the approval of the Secretary of the Treasury in connection with the issuance of obligations. Since the issuance of obligations, especially new instruments with unknown risk characteristics, can have a significant effect on the safety and soundness of FNMA, the Director needs to be able to disapprove the issuance of particular obligations to carry out the Director's functions. It is not, however, intended that the Director micromanage FNMA's funding operations; therefore, this amendment provides that any obligation issued or being issued by FNMA on the date of enactment of this Act, or any obligation of a substantially identical type, is deemed approved by the Director. This provision does not override the Director's authority under section 131 as set forth below to limit liabilities of FNMA. These amendments are not intended to affect in any way the existing authority of the Secretary of the Treasury.

Section 309(h) of the Charter Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FNMA. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FNMA, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 311 of the Charter Act is amended to delete a requirement that the Secretary of HUD approve all issuances of stock and convertible debt by FNMA.

All of these amendments except the amendment deleting the statutory capital ratio shall become effective on January 1, 1992, the date the Office is established. The amendment deleting the statutory capital ratio becomes effective three years after the date of enactment, which is the effective date for the minimum risk-based capital levels described below.

Any rules and regulations adopted by the Secretary pursuant to provisions of the Charter Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 118 contains similar conforming amendments to the Federal Home Loan Mortgage Corporation Act (the "FHLMC Act"). Section 303(b) of the FHLMC Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FHLMC. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FHLMC, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 303(b) of the FHLMC Act is also amended by eliminating a provision authorizing the Secretary of HUD to limit the amount of dividends paid by FHLMC. This authority is included in the more detailed supervisory and enforcement powers granted to the Director as described below. A statutory capital rule similar to the one described above for FNMA is also deleted as unnecessary in view of the explicit authority granted the Director to establish relevant capital measures for FHLMC.

Section 118(b) amends section 306(j) of the FHLMC Act to give the Director concurrent approval authority with the Secretary of the Treasury over the issuance of notes, debentures, and substantially identical types of unsecured obligations. This amendment is intended to have the same effect as the parallel amendment to section 304(b) of the Charter Act in section 117(b)(3)–(4).

The various amendments to the FHLMC Act have the same effective dates as the parallel amendments to the Charter Act, as described above. Any rules and regulations adopted by the Secretary pursuant to provisions of the FHLMC Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 119 requires the Director to make an annual report to Congress setting out steps taken to implement this Act, the safety and soundness of each enterprise, and any recommended amendments to any law affecting the safety and soundness of the enterprises. These reports will be in addition to reports of the Secretary required under current law. It is intended that the Secretary will report separately on programmatic matters not included in the report of the Director.

Section 120 authorizes the Secretary to assess the enterprises an amount equal to the costs associated with carrying out the Director's responsibilities and the Secretary's regulatory responsibilities with respect to the enterprises. These funds are to be deposited into a new separate fund of the Treasury from which they will be immediately available to carryout the responsibilities of the Secretary and the Director without regard to fiscal year limitations.

Section 131 sets out the new authority granted to the Director to ensure the capital adequacy of the enterprises and to take prompt corrective action in the event an enterprise falls below a relevant capital measure. Under section 131(a), the Director is required to establish relevant capital measures for the enterprises and to establish minimum risk-based capital levels for each measure that meet certain criteria. The minimum risk-based capital levels must exceed the leverage limit set forth in section 131(a)(2) and they must equal, in the Director's opinion, the sum of—

(1) an amount of capital sufficient, when considered in conjunction with guarantee fees paid to the enterprise, to enable the enterprise to maintain positive capital to cover interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Director;

(2) an amount of capital sufficient to protect aganist management risk, operations risk, and business risk; and

(3) an amount of capital sufficient to provide capital coverage at the margin for purposed new programs or lines of business whose risk characteristics are uncertain.

In assessing the impact of the stressful economic environments determined by the Director, the Director will use the most recent generally accepted analytical methodologies to measure the interest rate risk and credit risk presented by the enterprise's method of conducting business.

Section 131(a)(2) sets forth a leverage limit which is equal to the sum of—

(1) 2.50 percent of total on-balance sheet assets,

(2) 0.45 percent of the total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise, and

(3) such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

The Director is given the authority to establish by regulation a leverage limit above the specified level.

Finally, section 131(a)(3) provides for a critical capital level that is intended, as a general matter, permit resolution of an enterprise's problems from its own resources. This level shall be the sum of 1.25 percent of total on-balance sheet assets, .25 percent of outstanding mortgage-backed securities, and such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

"On-balance sheet assets" and "off-balance sheet obligations" are to be determined in accordance with generally accepted accounting principles.

Based on the three capital levels just described, section 131 establishes four different levels into which an enterprise may fall and sets forth specific actions that may be taken by the Director depending upon which level an enterprise is in. The Director is required to promulgate the regulations establishing the minimum risk-based capital levels within one year from the date of enactment. Beginning three years from the date of enactment, the Director may take any action authorized under section 131 (as described in greater detail below) for failure to meet the minimum risk-based capital level. The Director may take any action authorized under section 131 based upon failure to meet the statutory leverage limit beginning one year after the date of enactment. The Director may take any action authorized under section 131 based upon failure to meet the critical capital level beginning January 1, 1992.

Level I is defined to include an enterprise that maintains capital that is below the minimum risk-based capital level for any relevant capital measure and is not within Levels II, III, or IV as described below.

Level II is defined to include an enterprise that maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit, or an enterprise that is otherwise classified within Level II under other provisions of section 131.

Level III is defined to include an enterprise that maintains capital that is below the leverage limit but that is at or exceeds the critical capital level, or an enterprise that is otherwise classified within Level III under other provisions of section 131.

Level IV is defined to include an enterprise that maintains capital below the critical capital level.

Section 131(a)(7) provides that the Director may reclassify any enterprise in Level I or Level II to Level III if the Director determines that the enterprise is in an unsafe and unsound condition or is engaging in an unsafe and unsound practice.

Section 131(b) provides that the Director shall promulgate regulations and take such other actions as are necessary to implement the provisions of section 131. It further provides that the Director is authorized to issue such orders and take such other actions as are necessary or appropriate to carry out the purposes of section 131. Section 131(b) also provides that the Director shall by regulation specify the applicable capital levels for each relevant capital measure to delineate Levels I through IV as described above.

Finally, section 131(b) provides that an enterprise that falls below the minimum risk-based capital levels may engage in an activity otherwise subject to programmatic approval of the Secretary only if it obtains in addition the approval of the Director as specified in section 131. This amendment combined with section 114 as described above gives the Director the exclusive authority to deny permission to engage in such investments for reasons of financial safety and soundness. The Secretary of HUD retains the authority to approve or deny such investments for programmatic reasons.

Section 131(c) sets forth the mandatory supervisory actions that may be taken with respect to an enterprise within Level I. The mandatory actions include restrictions on expansion and capital distributions that would cause the enterprise to fall below Level I. The Director shall also refuse any expansion if the Director determines that the enterprise is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

Section 131(d) sets forth the mandatory and discretionary supervisory actions that may be taken with respect to an enterprise within Level II. The mandatory actions include a requirement to submit and implement an acceptable capital plan that will restore the capital of the enterprise to a level sufficient to meet the minimum risk-based capital levels established by the Director, restrictions on capital distributions, restrictions on expansion that are otherwise subject to approval by the Director, and reclassification to Level III for failure to submit an acceptable capital plan or to implement it in good faith to the satisfaction of the Director.

The discretionary supervisory actions include the authority to limit any increase in, or order the reduction of, any liabilities; to restrict or require contraction of the enterprise's assets; to restrict capital distributions; to restrict activities; and to limit executive compensation.

Section 131(e) includes the mandatory and discretionary supervisory actions applicable to enterprises within Level III. The mandatory actions include a requirement to submit and implement an acceptable capital plan if one has not already been filed; a prohibition on capital distributions; a prohibition on expansion; a limitation on asset growth; and a limitation on compensation. The discretionary actions include the ability to impose further limits on executive compensation as well as authority to dismiss officers and directors and the authority to appoint a conservator for the enterprise.

Section 131(f) provides that the Director shall, within 30 days after determining that an enterprise is within Level IV, appoint a conservator for the enterprise. The conservator shall have the authority to take any mandatory or discretionary supervisory actions available for enterprises in Levels II or III and shall also have the powers of a conservator as set forth in section 164.

The Director is given the authority to modify, defer, or remove any mandatory supervisory action applicable to any enterprise if the Director determines it to be in the public interest.

Section 131(g) sets forth the requirements of the capital restoration plan that is required as described above. The Director is generally required to act on a capital plan within 30 days after submission, but the Director is authorized to extend this time period.

Section 131(h) provides that any person aggrieved by an action of the Director under this section may obtain judicial review in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. An aggrieved person includes the enterprise that is the subject of a mandatory or discretionary supervisory action under Levels I, II, or III; a person who has been dismissed as provided in this section; or a person whose compensation has been limited as provided in this section.

An action of the Director may be modified, terminated or set aside only if the reviewing court finds, on the record on which the Director acted, that the Director's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. No court shall have jurisdiction to enjoin or otherwise delay agency action pending judicial review. However, petitions under this section will be given expedited review.

Section 132 establishes a safe harbor for enterprises that receive the highest investment grade from two nationally-recognized statistical rating organizations ("NRSRO"). If the Director determines, after receiving ratings from two NRSROs, that an enterprise merits the highest investment grade rating, the enterprise shall be deemed to meet the minimum risk-based capital levels described above for one year following the effective date of the Director's determination. If the Director fails to make such a determination, the Director shall make a written finding setting forth the reasons. The safe harbor will be terminated prior to the end of the one-year period if either NRSRO notifies the Director, and the Director determines, that an enterprise no longer merits the highest investment grade. The cost of the ratings will be covered by an assessment on the enterprise seeking to qualify for the safe harbor. The Director may seek a rating of an enterprise from an NRSRO at any time to assist in carrying out the Director's responsibilities.

Section 133 imposes various reporting requirements on each enterprise that are similar to the reporting requirements imposed on banks under the Federal Deposit Insurance Act ("FDI Act"). Section 133 requires each enterprise to make annual reports of condition to the Director and authorizes the Director to call for such additional other reports as the Director determines to be necessary. The reports of condition shall be certified by an officer of the enterprise as true and correct to the best of his or her knowledge and belief and shall also be attested by at least three directors of the enterprise.

Section 133(c) imposes three tiers of penalties for failure to make reports as required under this section. Section 133(d) also requires each enterprise to make such reports

to the Director on the payment of capital distributions as the Director deems necessary.

Section 134 authorizes the Director to appoint examiners who shall have the power to examine either enterprise whenever the Secretary determines that an examination is necessary to determine the condition of the enterprise.

Sections 141 through 144 grant the Director authority to issue cease-and-desist orders or to remove or suspend officers or directors of an enterprise that parallels the authority of the appropriate Federal banking agencies under section 8 of the FDI Act. Section 147 contains authority to impose civil money penalties under three different tiers. These penalties, like the penalties in the FDI Act on which they are modeled, are intended to be compensatory of costs and damages to the Government that are not readily susceptible to measurement. Nonetheless, since the imposition of these civil penalties may potentially preclude a subsequent criminal prosecution based on the same facts under the Double Jeopardy clause of the U.S. Constitution, *see United States* v. *Halper*, _____ U.S. _____, 109 S. Ct. 1892 (1989), the Congress intends the Director and the Attorney General to work together to develop procedures to avoid undesired preclusion of subsequent criminal prosecutions.

Sections 161 through 167 contain conservatorship provisions that parallel provisions of the Bank Conservation Act (12 U.S.C. 200 *et seq.*). Section 161 provides the Director with the authority to appoint a conservator to take possession and control of an enterprise whenever one or more of several circumstances exist, including classification in Level III or Level IV as described above. Section 161 also provides for judicial review of the appointment of a conservator. Section 162 authorizes examinations of enterprises in conservatorship. Section 163 provides for termination of a conservatorship. Section 164 sets forth the powers and duties of a conservator. Section 165 provides limits on the liability of a conservator and permits the Director to indemnify a conservator.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

Title II contains an amendment to section 2A of the Federal Home Loan Bank Act which makes financial safety and soundness of the Federal Home Loan Banks ("FHLBks") the primary duty of the Federal Housing Finance Board ("FHFB"). The other duties of FHFB, which include ensuring that the FHLBks carry out their housing finance missions, although important, are to be secondary to ensuring that the FHLBks operate in a financially safe and sound manner.

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF STUDENT LOAN MARKETING ASSOCIATION

The purpose of Title III is to establish a system of regulation of the Student Loan Marketing Association ("SLMA") that embodies the following principles, which track the principles embodied in Title I with respect to the FNMA and FHLMC—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of SLMA;

(2) the regulator should have sufficient stature to maintain independence from SLMA or special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of SLMA; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules so established.

Section 302 is a definitional section that defines the term "Association" to mean the Student Loan Marketing Association and the term "Secretary" to mean the Secretary of Treasury. The terms "capital", "capital distribution", "compensation", "executive officer", and "new program" are also defined.

Section 311 requires the Secretary to make an annual report to Congress setting out steps taken to implement this Act, the safety and soundness of SLMA, and any recommended amendments to any law affecting the safety and soundness of SLMA.

Section 312 authorizes the Secretary to assess SLMA for the costs associated with carrying out the Secretary's responsibilities. These funds are to be deposited into a new separate fund of the Treasury from which they will be immediately available to carry out the responsibilities of the Secretary without regard to fiscal year limitation.

Section 313 contains various amendments to section 439 of the Higher Education Act of 1965 to reflect the new grant of authority to the Secretary to supervise the safety and soundness of SLMA. References to the Secretary in subsections (h)(2) and (h)(4) are deleted. In addition, the reporting requirement contained in section 1087-2 is deleted in view of the new reporting requirements granted to the Secretary as part of the Secretary's supervisory authorities.

Section 321 sets out the new authority granted to the Secretary to ensure the capital adequacy of SLMA and to take prompt corrective action in the event an enterprise falls below a relevant capital measure. Under section 321(a), the Secretary is required to establish relevant capital measures for SLMA and to establish minimum risk-based capital levels for each measure that meet certain criteria. The minimum risk-based capital levels must exceed the leverage limit set forth in section 321(a)(2) and they must equal, in the Secretary's opinion, the sum of—

(1) an amount of capital sufficient to enable SLMA to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Secretary;

(2) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(3) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

In assessing the impact of the stressful economic environments determined by the Secretary, the Secretary will use the most recent generally accepted analytical methodologies to measure the interest rate risk and credit risk presented by SLMA's method of conducting business.

Section 321(a)(2) sets forth a leverage limit which is equal to the sum of—

(1) 2 percent of total on-balance sheet assets, and

(2) such percentage of off-balance sheet obligations, if any, as the Secretary shall establish by regulation.

The Secretary is given the authority to establish by regulation a leverage limit above the specified level.

Finally, section 321(a)(3) provides for a critical capital level that is intended to, as a general matter, permit resolution of SLMA's problems without creating the potential for significant loss to the taxpayer. This level shall be 1 percent of total on-balance sheet assets, and such percentage of off-balance sheet assets as the Secretary may establish by regulation.

"On-balance sheet assets" and "off-balance sheet obligations" are to be determined in accordance with generally accepted accounting principles.

Based on the three capital levels just described, section 321 establishes four different levels into which SLMA may fall and sets forth specific actions that may be taken by the Secretary depending upon which level SLMA is in. The Secretary is required to promulgate the relations establishing the minimum risk-based capital levels within one year from the date of enactment. Beginning three years from the date of enactment, the Secretary may take any action authorized under section 321 (as described in greater detail below) for failure to meet the minimum risk-based capital level. The Director may take any action authorized under section 321 based upon failure to meet the statutory leverage limit beginning one year after the date of enactment. The Secretary may take action based upon failure to meet the critical capital level beginning January 1, 1992.

SLMA shall be within Level I if it maintains capital that is below the minimum risk-based capital level for any relevant capital measure and is not within Levels II, III, or IV as described below.

SLMA shall be within Level II if it maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit, or is otherwise classified within Level II under other provisions of section 321.

SLMA shall be within Level III if it maintains capital that is below the leverage limit but that is at or exceeds the critical capital level, or is otherwise classified within Level III under other provisions of section 321.

SLMA shall be within Level IV if it maintains capital below the critical capital level.

Section 321(a)(7) provides that the Secretary may reclassify SLMA in Level I or Level II to Level III if the Secretary determines that SLMA is in an unsafe and unsound condition or is engaging in an unsafe and unsound practice.

Section 321(b) provides that the Secretary shall promulgate regulations and take such other actions as are necessary to implement the provisions of section 321. It further provides that the Secretary is authorized to issue such orders and take such other actions as are necessary or appropriate to carry out the purposes of section 321. Section 321(b) also provides that the Secretary shall by regulation specify the applicable capital levels for each relevant capital measure to delineate Levels I through IV as described above.

Finally, section 321(b) provides that when SLMA falls below the minimum risk-base capital levels, SLMA may undertake an activity under subsection (d), (o), (p) or (q) only with the approval of the Secretary, as provided in section 313. This section is not intended to give the Secretary the authority to approve or disapprove SLMA activities for programmatic reasons unrelated to safety and soundness.

Section 321(c) sets forth the mandatory supervisory actions that may be taken with re-

spect to SLMA if it is within Level I. The mandatory actions include restrictions on investments or other activities that are otherwise subject to review by the Secretary and restrictions on capital distributions.

Section 321(d) sets forth the mandatory and discretionary supervisory actions that may be taken with respect to SLMA if it is within Level II. The mandatory actions include a requirement to submit and implement an acceptable capital plan that will restore SLMA to Level I, restrictions on capital distributions, restrictions on investments and other activities that are otherwise subject to approval by the Secretary, and reclassification to Level III for failure to submit an acceptable capital plan or to implement it in good faith to the satisfaction of the Secretary.

The discretionary supervisory actions include the authority to limit any increase in, or order the reduction of, any liabilities; to restrict or require contraction of SLMA's assets; to restrict capital distributions; to require issuance of new capital; to restrict activities; and to limit executive compensation.

Section 321(e) includes the mandatory and discretionary supervisory actions applicable to SLMA if it is within Level III. The mandatory actions include a requirement to submit and implement an acceptable capital plan if one has not already been filed; a prohibition on capital distributions; a prohibition on expansion; a limitation on asset growth; and a limitation on compensation. The discretionary actions include the ability to impose further limits on executive compensation as well as authority to dismiss offiers and directors and the authority to appoint a conservator for SLMA.

Section 321(f) provides that the Secretary shall, within 30 days after determining that SLMA is within Level IV, appoint a conservator for SLMA. The conservator shall have the authority to take any mandatory or discretionary supervisory actions available in Levels II or III and shall also have the powers of a conservator as set forth in section 354.

The Secretary is given the authority to modify, defer, or remove any mandatory supervisory action applicable to any enterprise if the Secretary determines it to be in the public interest.

Section 321(g) sets forth the requirements of the capital restoration plan that is required as described above. The Secretary is generally required to act on a capital plan within 30 days after submission, but the Secretary is authorized to extend this time period.

Section 321(h) provides that any person aggrieved by an action of the Secretary under this section may obtain judicial review in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. An aggrieved person includes SLMA if it is the subject of a mandatory or discretionary supervisory action under Level I, II, or III; a person who has been dismissed as provided in this section; or a person whose compensation has been limited as provided in this section.

An action of the Secretary may be modified, terminated or set aside only if the reviewing court finds, on the record on which the Secretary acted, that the Secretary's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. No court shall have jurisdiciton to enjoin or otherwise delay agency action pending judicial review. However, petitions under this section will be given expedited review.

Section 322 imposes various reporting requirements on SLMA that are similar to the reporting requirements imposed on banks under the Federal Deposit Insurance Act ("FDA Act"). Section 322(a) requires SLMA to make annual reports of condition to the Secretary and authorizes the Secretary to call for such additional other reports as the Secretary determines to be necessary. The reports of condition shall be certified by an officer of SLMA as true and correct to the best of his or her knowledge and belief and shall be attested by at least three directors of SLMA.

Section 322(b) imposes three tiers of penalties for failure to make reports as required under this section. Section 322(c) also requires SLMA to make such reports to the Secretary on the payment of capital distributions as the Secretary deems necessary.

Section 323 authorizes the Secretary to appoint examiners who shall have the power to examine SLMA whenever the Secretary determiens that an examination is necessary to determine the condition of SLMA.

Section 324 establishes a safe harbor for SLMA if it receives the highest investment grade from two nationally-recognized statistical rating organizations ("NRSRO"). If the Secretary determines, after receiving ratings from two NRSROs, that SLMA merits the highest investment grade rating, SLMA shall be deemed to meet the minimum risk-based capital levels described above for one year following the effective date of the Secretary's determination. If the Secretary fails to make such a determination, the Secretary shall make a written finding setting forth the reasons. The safe harbor will be terminated prior to the end of the one-year period if either NRSRO notifies the Secretary, and the Secretary determines, that SLMA no longer merits the highest investment grade. The cost of the ratings will be covered by an assessment on SLMA. The Secretary may seek a rating of an enterprise from an NRSRO at any time to assist in carrying out the Secretary's responsibilities.

Sections 331 through 334 grant the Secretary authority to issue cease-and-desist orders or to remove or suspend officers or directors or SLMA that parallels the authority of the appropriate Federal banking agencies under section 8 of the FDI Act. Section 337 contains authority to impose civil money penalties under three different tiers. These penalties, like the penalties in the FDI Act on which they are modeled, are intended to be compensatory of costs and damages to the Government that are not readily susceptible to measurement. Nonetheless, since the imposition of these civil penalties may potentially preclude a subsequent criminal prosecution based on the same facts under the Double Jeopardy clause of the U.S. Constitution, *see United States v. Halper*, —— U.S. ——, 109 S. Ct. 1892 (1989), the Congress intends the Secretary and the Attorney General to work together to develop procedures to avoid undesired preclusion of subsequent criminal prosecutions.

Sections 351 through 357 contain conservatorship provisions that parallel provisions of the Bank Conservation Act (12 U.S.C. 200 *et seq.*). Section 351 provides the Secretary with the authority to appoint a conservator to take possession and control of SLMA whenever one or more of several circumstances exist, including classification in Level III or Level IV as described above. Section 351 also provides for judicial review of the appointment of a conservator. Section 352 authorizes examinations of enterprises in conservatorship. Section 353 provides for termination of a conservatorship. Section 354 sets forth the powers and duties of a conservator. Section 355 provides limits on the liability of a conservator and permits the Secretary to indemnify a conservator.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

Section 401 amends Title 28 of the United States Code to grant the United States Claims Court jurisdiction over claims for damages against the United States where an action of the Secretary has been modified, termianted or set aside by a reviewing court.

TITLE V—FARM CREDIT SYSTEM

Section 501 would clarify the Funding Corporation's current authority under Section 4.9(b) of the Farm Credit Act of 1971 to set the "conditions of participation" by System banks "in each issue of joint, consolidated, or System-wide obligations." Section 501 specifically clarifies the Funding Corporation's authority to obtain information from System banks and associations to monitor their financial performance, to establish financial condition and performance standards, and to institute economic incentives designed to encourage compliance with such standards.

Section 502 would give the Farm Credit System Insurance Corporation the authority to require an assisted System bank's member associations to purchase additional capital in the bank, according to the following formula:

current stock of ind. association plus amount of additional stock to be purchased equals avg. indebtedness of assn. (over last 3 years)

total current stock plus total cap. of all associations required total avg. indebtedness of all assoc. (over last 3 years)

where X equals the amount of additional stock to be purchased by an individual association.

Section 502 would also give the Corporation the authority to require payments to the Insurance Fund from the associations of a bank for whose insured obligations the Corporation has made payments from the Insurance Fund.

Section 503 would give the Farm Credit Administration explicit authority to regulate Federal Agricultural Mortgage Corporation affiliates, and to use its rulemaking authority as a supervisory tool.

Section 511 would create an independent Farm Credit System Insurance Corporation with three voting and two non-voting members. The voting members would have financial expertise and be appointed by the President. The two non-voting members would consist of one member of the board of the Farm Credit Administration who is not its Chairman, and the Secretary of Agriculture.

Section 512 would require the Corporation to develop a method for charging System banks and institutions risk-based insurance premiums. These risk-based premiums would replace the current statutory premium formula.

Section 513 would clarify that the Corporation will be the successor to the Farm Credit System Assistance Board in its agreements with assisted System institutions.

Section 521 would require that the System banks consolidate so as to ensure geographic and crop-based diversity. The Farm Credit System would be charged with developing a plan to implement consolidation; if no plan is developed within two years, the Farm

Credit Administration would be required to develop one.

Section 531 would require System institutions to reimburse Treasury interest paid on Financial Assistance Corporation ("FAC") debt at the time of FAC debt maturity. The repayment would be allocated among System institutions based on their level of performing loans in the preceding 15 years. The FAC Trust Fund would be authorized to reimburse Treasury in the event a System institution does not. Legislation would be clarified to require that all Treasury interest assistance is to be repaid. System institutions would be authorized to prepay their FAC principal and interest obligations into the Farm Credit Assistance Fund.

Section 532 would clarify that FAC debt issued for Capital Preservation agreements is an obligation of the System banks.

Section 541 would require one-third of the directors of System institutions to be outside directors.•

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued licenses; to the Committee on Energy and Natural Resources.

EXTENSION OF TIME ON CERTAIN LICENSES

• Mr. BUMPERS. Mr. President, I am today introducing, along with Senator PRYOR, legislation that would authorize the Federal Energy Regulatory Commission to extend modestly the deadlines in FERC-issued licenses for the development of hydroelectric capacity on two existing dams on the Arkansas River.

Mr. President, for several years Arkansas Electric Cooperative Corp. [AECC] has been diligently pursuing the installation of hydroelectric generation on the Arkansas River. Construction on the Clyde T. Ellis Hydroelectric Generating Station at Lock and Dam No. 13 was started in August 1985 and commercial operation began on December 8, 1988. Immediately thereafter, AECC began the process of securing the necessary permits for the installation of an $85 million hydroproject at Lock and Dam No. 9. Commercial operation is anticipated by October, 1993. AECC is meeting the existing deadlines in FERC-issued licenses for these two projects.

The legislation we are introducing today will allow FERC to extend key deadlines in AECC's licenses for the two remaining projects at Lock and Dam Nos. 2 and 3. For both of these, AECC is required to purchase the necessary property by October 16, 1991, a deadline it will be virtually impossible to meet. The deadline extensions we are proposing are modest ones. AECC will have reasonable extensions of time to purchase property and begin construction, but ultimately will have only a 1-year extension for completing the project at Dam No. 2—(license No. 3033)—and a 3-year extension for completing the project at Dam No. 3—license No. 3034.

Mr. President, in the original licensing and license extension proceedings for these two projects, there has never been an objection filed and FERC has consistently found that development will result in no significant long term environmental impacts. Moreover, as we are all aware, the enactment of the Clean Air Act Amendments of 1990 makes the installation of hydroelectric generation capacity on existing dams—capacity which emits no SO_2, NO_X, CO_2, or other pollutant—an even more attractive option.

On April 17, the Committee on Energy and Natural Resources agreed to this same language as an amendment to the omnibus energy legislation moving through the committee. I simply wanted to introduce this as a freestanding bill for referral to the committee, and I may ask the committee to report this bill separately. It is absolutely without controversy, and clearly is in the public interest.

Mr. President, I ask unanimous consent that an explanation of these provisions be printed in the RECORD.

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

EXPLANATION

This provision would allow FERC to extend the deadlines for complying with the provisions of FERC License Nos. 3033 and 3034 for a further reasonable period of time. The existing and proposed deadlines would be as follows:

License	Deadline	Existing	Proposed
No. 3033	Land purchase	Oct. 16, 1991	Aug. 10, 1994
	Commence construction.	Aug. 10, 1993	Aug. 10, 1994
	Complete construction.	Aug. 10, 1998	Aug. 10, 1999
No. 3034	Land purchase	Oct. 16, 1991	Aug. 10, 1996
	Commence construction.	Aug. 10, 1993	Aug. 10, 1996
	Complete construction.	Aug. 10, 1998	Aug. 10, 2001.•

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 14, a bill to assist in the restoration of the Chesapeake Bay, and for other purposes.

S. 139

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 139, a bill to amend the Internal Revenue Code to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 387

At the request of Mr. MACK, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 387, a bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the medicare program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are medicare beneficiaries.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Iowa [Mr. HARKIN], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 776

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 776, a bill to require that humanitarian assistance to Cambodia be provided through international organizations and private and voluntary organizations and to prohibit assistance to combat forces seeking to overthrow the Government of Cambodia.

S. 790

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 838

At the request of Mr. DODD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 838, a bill to amend the Child Abuse Prevention and Treatment Act to re-

vise and extend programs under such Act, and for other purposes.

S. 878

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 891

At the request of Mr. MACK, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Idaho [Mr. CRAIG], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1092

At the request of Mr. KASSEBAUM, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1092, a bill to permit national banking associations to establish and operate branches in States other than the States in which their main offices are located, subject to applicable State statutory law.

S. 1093

At the request of Mr. BIDEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1093, a bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

S. 1234

At the request of Mr. DIXON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1234, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment.

S. 1261

At the request of Mr. DOLE, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

SENATE JOINT RESOLUTION 39

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 39, a joint resolution to designate the month of September 1991, as "National Awareness Month for Children with Cancer."

SENATE JOINT RESOLUTION 61

At the request of Mr. FORD, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. LUGAR], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate June 1, 1992, as "Kentucky Bicentennial Day."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resoluton 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 136

At the request of Mr. RIEGLE, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resoluton 136, a joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes.

AMENDMENT NO. 295

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENT NO. 296

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENT NO. 300

At the request of Mr. BURNS, the name of the Senator from Arizona [Mr. DECONCINI] his name was added as a cosponsor of amendment No. 300 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

REID AMENDMENT NO. 304

Mr. REID proposed an amendment to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

Strike section 137 of the bill.

SYMMS (AND OTHERS) AMENDMENT NO. 305

Mr. SYMMS (for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, Mr. WALLOP, and Mr. SHELBY) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place insert the following new section:

"SECTION . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions taken pursuant to this section shall be limited to wheth-

er the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this seciton. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any other available judicial review of agency action.

SYMMS (AND OTHERS) AMENDMENT NO. 306

Mr. SYMMS (for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, Mr. WALLOP, and Mr. SHELBY) proposed an amendment to amendment No. 305 proposed by Mr. SYMMS (and others) to the bill S. 1204, supra, as follows:

Strike all after the word "SECTION" and insert the following:

" . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—

(1) No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditous manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action."

GORTON (AND OTHERS) AMENDMENT NO. 307

Mr. GORTON (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. EXON, and Mr. BRYAN) proposed an amendment to the bill S. 1204, supra, as follows:

At the end of the bill, add the following new title:

TITLE II—HIGHWAY SAFETY

PART A—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

SEC. 201. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 202. DEFINITIONS.

As used in this part, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer; and

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) NATIONAL DRIVER REGISTER ACT.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA HIGHWAY SAFETY PROGRAMS.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 204. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

The Secretary shall expend the sums authorized under section 203(e) as the Secretary deems necessary for the purpose of conducting research or intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

SEC. 205. SIDE IMPACT PROTECTION FOR VEHICLES.

(a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

SEC. 206. AUTOMOBILE CRASHWORTHINESS DATA.

(a) STUDY AND INVESTIGATION.—

(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger and multipurpose passenger vehicle makes and models.

(2) CONTENTS OF STUDY.—Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passener vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) REPORT BY NATIONAL ACADEMY OF SCIENCES.—Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) PUBLIC COMMENT.—Within 60 days after transmittal of the report to the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles.

(5) DETERMINATION BY SECRETARY.—Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—

(1) PROMULGATION.—If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. This rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) REVIEW BY CONGRESSIONAL COMMITTEE.—The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

SEC. 207. STANDARDS COMPLIANCE.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end of the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

SEC. 208. INVESTIGATION AND PENALTY PROCEDURES.

(a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

SEC. 209. MULTIPURPOSE PASSENGER VEHICLE SAFETY.

(a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) CLASSIFICATION REVIEW.—

(1) RULEMAKING PROCEEDING.—In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) CLASSIFICATION CONSISTENCY.—Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

SEC. 210. ROLLOVER PROTECTION.

The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

SEC. 211. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 212. IMPACT RESISTANCE CAPABILITY OF BUMPERS.

(a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A.(a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manfacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) AUTHORITY TO REQUIRE HIGHER STANDARD.—Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

SEC. 213. CHILD BOOSTER SEATS.

(a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 214. AIRBAG REQUIREMENTS.

(a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—

(1) DEADLINES FOR INSTALLATION.—Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) TREATMENT OF AIRBAG REQUIREMENTS.—For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

SEC. 215. STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

SEC. 216. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such

manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item or replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 217. DARKENED WINDOWS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issue of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after such date of enactment.

SEC. 218. GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

SEC. 219. METHODS OF REDUCING HEAD INJURIES.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 220. PEDESTRIAN SAFETY.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 221. DAYTIME RUNNING LIGHTS.

(a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

SEC. 222. ANTILOCK BRAKE SYSTEMS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 223. HEADS-UP DISPLAYS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of

this Act and completed not later than 12 months after such date of enactment.

SEC. 224. SAFETY BELT DESIGN.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 225. CRITERIA FOR STANDARDS.

Any standard established under a proceeding required by section 210, 217, 219, 220, 221, 222, 223, or 224 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

SEC. 226. IMPAIRED DRIVING ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Impaired Driving Prevention Act of 1991".

(b) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of the equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph

among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title of such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger areas.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO ORDER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptable—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (b) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(d) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement program.".

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

SEC. 231. SHORT TITLE.

This part may be cited as the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991".

SEC. 232. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) AMENDMENT TO TITLE 23, U.S.C.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Motor carrier safety assistance program

"(a) GRANTS.—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

"(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be eligible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

"(b) STATE PLANS.—

"(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

"(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible States rules, regulations, standards, and orders; and

"(B) State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

"(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

"(A) designates the State motor vehicle safety agency responsible for administering the plan;

"(B) ensures that the State motor vehicle safety agency and other State or local agencies participating in the plan have or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

"(C) ensures that the State will devote adequate funds for administering the plan;

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;

"(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

"(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

"(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighing of vehicles;

"(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish, the effectiveness of other safety initiatives;

"(I) gives satisfactory assurances that the State will conduct effective activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carrier Safety Assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial driver's licenses;

"(iii) to ensure adequate enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

"(J) gives satisfactory assurances that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

"(K) seeks to ensure that fines imposed and collected by the State will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

"(3) ADDITIONAL PLAN REQUIREMENTS.—

"(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggragete expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot projects.

"(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

"(i) conducted at locations other than fixed weight facilities;

"(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

"(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

"(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

"(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which does not provide that the estimated aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds and State matching funds required to receive Federal funding, for commercial motor vehicle safety programs, including an estimate of expenditure for traffic enforcement activities that were coupled with commercial motor vehicle safety inspections, will be maintained at a level which does not fall below the estimated average level of such expenditures for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs.

"(3) CONTINUING EVALUATION; WITHDRAWAL OF APPROVAL; JUDICIAL REVIEW.—

"(A) EVALUATION.—The Secretary shall make a continuing evaluation of the manner in which each State is carrying out its State plan, based upon reports submitted by the State motor vehicle safety agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years, the first of which shall be completed within three years after the date of enactment of this section.

"(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

"(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

"(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the state that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

"(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

"(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to promote effective implementation of the purposes of this section.

"(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

"(d) ALLOCATIONS.—

"(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds available for that fiscal year. At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials to carry out the purposes of this section.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (h)(3) or for public education under subsection (h)(4), may designate specific eligible States among which to allocate such funds.

"(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

"(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

"(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

"(h) FUNDING.—

"(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

"(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused exclusively upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commercial motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employees, specifically including the cost of purchasing equipment for and conducting inspections to check the curent status of licenses issued pursuant to that Act.

"(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary. The development of the model program and procedures required under section 6 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 shall be funded under this paragraph.

"(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any fiscal year shall be allocated among specified eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' means—

"(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

"(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

"(2) 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

"(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

"(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

"(3) 'controlled substance' has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

"(4) 'State' means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.".

(b) AMENDMENT TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—

(1) ELIGIBLE EXPENDITURES.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302) is amended by adding at the end the following new subsection:

"(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of com-

mercial motor vehicles, or for activities described under section 411(b)(2)(I) and (J) of title 23, United States Code, or both.".

(2) FUNDING.—Section 404(a)(2) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304(a)(2)) is amended—

(A) by striking "1988 and" and inserting in lieu thereof "1988,"; and

(B) by inserting immediately before the period at the end the following:", and $65,000,000 per fiscal year for fiscal year 1992".

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following new item:

"411. Motor carrier safety assistance program.".

SEC. 233. NEW FORMULA FOR ALLOCATION OF MCSAP FUNDS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation by regulation shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the Motor Carrier Safety Assistance Program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety, including traffic safety enforcement and size and weight enforcement activities that are coupled with motor carrier safety inspections; to increase compatibility of state commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations; and to promote other factors intended to promote effectiveness and efficiency that theSecretary determines appropriate.

SEC. 234. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2707) is amended by adding at the end the following new subsection:

"(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2708(a)(21)) is amended by inserting "and (g)(1)" immediately before the period at the end.

SEC. 235. INTRASTATE COMPATIBILITY.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with the Federal motor carrier safety regulations under the Motor Carrier Safety Assistance Program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 411 of title 23, United States Code, as added by this part, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 226. ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS.

Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall consult with representatives of law enforcement organizations and affected industries, and develop within 12 months after such date of enactment a model program and procedures for Motor Carrier Safety Assistance Program officers and employees to enforce the .04 percent blood alcohol concentration limit established by regulation pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

SEC. 227. FHWA POSITIONS.

To help implement the purposes of this part, the Secretary of Transportation in fiscal year 1992 shall employ and maintain thereafter two additional positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 228. DRUG FREE TRUCK STOPS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

"Sec. 409. Transportation safety offenses."

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall imple-

ment the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines referred to in paragraph (2), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple enhancements pursuant to such paragraph is subject to not more than one such enhancement.

SEC. 239. IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) RULEMAKING PROCEEDING.—Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 100-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "REPORT ON" in the heading;

(2) by inserting "(a) REPORT.—" immediately before "Not later than"; and

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

"(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SEC. 240. COMPLIANCE REVIEW PRIORITY.

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for a compliance review.

SEC. 241. REPORT ON TRAINING OF DRIVERS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. The report shall include recommendations of the Secretary on the feasibility, desirability, and cost effectiveness of establishing mandatory Federal training requirements for all such entry level drivers. In preparing the report, the Secretary shall solicit the views of interested persons.

PART C—TRANSPORTATION EMPLOYEE TESTING

SEC. 261. SHORT TITLE.

This part may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

SEC. 262. FINDINGS.

The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, and trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program of abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

SEC. 263. TESTING TO ENHANCE AVIATION SAFETY.

(a) IN GENERAL.—Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION, REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law of Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program.

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance

in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently as a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services.

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law of Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

SEC. 264. TESTING TO ENHANCE RAILROAD SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end of of following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individual may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

SEC. 265. TESTING TO ENHANCE MOTOR CARRIER SAFETY

(a) AMENDMENT TO COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986.—

(1) IN GENERAL.—The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laborary if the individual requests the independent test with 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATION.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) CONFORMING AMENDMENT.—The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b) PILOT TEST PROGRAM.—

(1) DESIGN AND IMPLEMENTATION.—The Secretary shall design within nine months after the date of enactment of this Act, and implement within 15 months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law of Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) SOLICITATION.—The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) SELECTION.—The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) DURATION; ALTERNATIVE METHODOLOGIES.—The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) FUNDING.—For purposes of carrying out this subsection, there shall be available to the Secretary, $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 APP. U.S.C. 2304) for fiscal year 1992.

(7) DEFINITION.—For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

SEC. 266. TESTING TO ENHANCE MASS TRANSPORTATION SAFETY.

(a) DEFINITIONS.—As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country; and

(3) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b) TESTING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall, in the interest of mass transportation safety, issue regulations within 12 months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) REHABILITATION PROGRAMS.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of the test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) OTHER REGULATION ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f) PENALTIES.—

(1) DISQUALIFICATION.—As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) EFFECT ON OTHER APPLICABLE PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) INELIGIBILITY FOR FINANCIAL ASSISTANCE.—A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

SYMMS AMENDMENT NO. 308

Mr. SYMMS proposed an amendment to the bill S. 1204, supra, as follows:

On page 15, strike all afer "thousand" on line 19 and continuing through "thousand" on line 23; and

On page 47, strike "And Nonattainment Areas Over 50,000 Population" beginning on line 17; and strike the language beginning after "State" on line 21 and continuing through "State," on line 24.

SIMPSON (AND WALLOP) AMENDMENT NO. 309

Mr. SIMPSON (for himself and Mr. WALLOP) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprise that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10% participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10% participation, as described in paragraph (2).

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

MURKOWSKI AMENDMENT NOS. 310 AND 311

Mr. MURKOWSKI proposed two amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 310

On page 102, strike item (16) of section 125. ("Section 218 relating to the Alaska Highway").

AMENDMENT NO. 311

On page 38, section 112, TOLL FACILITIES, subsection (b) is amended to read as follows:

SEC. 129. TOLL FACILITIES.

(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities, provided that, for the purposes of subsection (d), the Federal share may be increased by a percentge of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a state are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities, provided that for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended.

SPECTER AMENDMENT NO. 312

Mr. SPECTER proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following:

SEC. . BUDGETARY TREATMENT OF HIGHWAY TRUST FUND.

(a) SHORT TITLE.—This section may be cited as the "Highway Trust Fund Improvement Act of 1991".

(b) EXCLUSION OF TRUST FUND FROM DEFICIT CALCULATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(A) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(B) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account).

(c) TRUST FUND TREATMENT IN THE CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall include allocations under section 302 of this Act of the outlays and revenue totals of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund, as described in subsection (b)(2) of the Highway Trust Fund Improvement Act of 1991, but shall not include such totals in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(d) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the 28th undesignated paragraph (relating to higher education facilities) the following new undesignated paragraph:

"Highway Trust Fund (20-8102-0-7-401; 69-8019-0-7-401; 69-8020-0-7-401; 69-8099-0-7-401);".

(e) APPLICABILITY.—Subsections (b), (c), and (d), including the amendments made by such subsections, shall apply with respect to fiscal years beginning after September 30, 1991.

(f) NOT DIRECT SPENDING.—This section and the amendments made by this section shall not be construed authorizing any direct spending as defined by section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

REID AMENDMENT NO. 13

Mr. MOYNIHAN (for Mr. REID) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the Highway Trust Fund for the purpose of road sealing projects.".

DOMENICI (AND OTHERS) AMENDMENT NOS. 314 AND 315

Mr. DOMENICI (for himself, Mr. SYMMS, and Mr. CRAIG) proposed two amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 314

S. 1204, the Surface Transportation Efficiency Act of 1991, is amended by adding the following section in the appropriate place:

SEC. . HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of

1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

AMENDMENT NO. 315

On page 151, line 10, strike out "and".

On page 151, line 15, strike out the period and insert in lieu thereof a semicolon.

On page 151, between lines 15 and 16, insert the following:

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

GORTON (AND ADAMS) AMENDMENT NO. 316

Mr. GORTON (for himself and Mr. ADAMS) proposed an amendment to the bill S. 1204, supra, as follows:

On page 40, line 3, replace the period with a comma and insert "except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system."

RIEGLE AMENDMENT NO. 317

Mr. MOYNIHAN (for Mr. RIEGLE) proposed an amendment to the bill S. 1204, supra, as follows:

Add the following new section in the appropriate place:

SEC. . EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the program of section 319 of the Clean Water Act and section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

COMPREHENSIVE URANIUM ACT

FORD AMENDMENT NO. 318

Mr. MITCHELL (for Mr. FORD) proposed an amendment to the bill (S. 210) to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long-term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites; as follows:

On page 59, strike lines 8 through 10, and insert in lieu thereof the following:

"(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include 'United States Enrichment Corporation' at the end thereof."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on consent to amendments by the State of Hawaii to the Hawaiian Homes Commission Act, Senate Joint Resolutions 22 through 34.

The hearing will take place on Tuesday, July 23, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

For further information, please contact Allen Stayman of the committee staff at (202) 224-7865.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on lender liability for environmental clean-up costs related to loan collateral. The hearing will take place on Tuesday, June 18, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, Counsel to the Small Business Committee at 224-5175.

SPECIAL COMMITTEE ON AGING

Mr. MITCHELL. Mr. President, on behalf of Mr. Pryor I would like to announce to the public that the Senate Special Committee on Aging has scheduled a hearing to discuss the ethics of health care rationing.

The hearing will take place on Wednesday, June 19, 1991, beginning at 10 a.m. in room 628 of the Dirksen Senate Office Building.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 2:15 p.m. to hold a closed hearing on intelligence matters.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 12, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on S. 962 and S. 963, legislation to reaffirm the inherent authority of tribal governments to exercise criminal jurisdiction over all Indian people on reservation lands.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on service-connected compensation cost-of-living adjustment, radiation compensation, and VA hospice-care legislation, on Wednesday, June 12, 1991, at 9:30 a.m., in SR-418.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, June 12, 1991, at 10 a.m., to conduct a hearing on the lender liability issue.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, June 12, 1991, at 2 p.m., to conduct a hearing on reauthorization of the Government Securities Act.

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

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on June 12, 1991, at 2 p.m., to hold a hearing on S. 654, a bill to amend title 35, United States Code, with respect to patents on certain processes and S. 756, a bill to amend title 17, United States Code, the copyrights renewal provisions, and for other purposes.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 10 a.m., to hold a hearing on the reauthorization of the Civil Rights Commission.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations

of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, to hold hearings on trade in conventional weapons: the international arms bazaar.

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

SUBCOMMITTEE ON TAXATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Taxation of the Committee on Finance be authorized to meet during the session of the Senate on June 12, 1991, at 9:30 a.m., to hold a hearing on a series of miscellaneous tax bills (S. 90, S. 150, S. 267, S. 284, S. 649, and S. 913).

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

SUBCOMMITTEE ON DEFICITS, DEBT MANAGEMENT, AND INTERNATIONAL DEBT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Deficits, Debt Management and International Debt of the Committee on Finance be authorized to meet during the session of the Senate on June 12, 1991, at 2 p.m., to hold a hearing on the impact of capital flight on Latin American debt and development prospects.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 10 a.m., for a hearing on universal access to health care and health care cost containment.

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

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Wednesday, June 12, 1991, at 2 p.m., to receive testimony from the Defense Nuclear Facilities Safety Board and the Department of Energy on safety and restart issues, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, at 10 a.m. to markup fiscal year 1992 authorizations for the State Department/USIA/BIB and ACDA.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, at 10 a.m. to markup fiscal year 1992 foreign assistance authorization legislation.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 12, 1991, at 9 a.m., to receive a briefing on the Persian Gulf war.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 2 p.m., to markup fiscal year 1992 foreign assistance authorization legislation.

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

ADDITIONAL STATEMENTS

TRIBUTE TO MARY ANN BARON OF FARMERS HOME ADMINISTRATION

• Mr. FORD. Mr. President, I rise today to recognize Mary Ann Baron of Lexington who has been recognized by the Department of Agriculture for outstanding performance of her duties as Farmers Home Administration Kentucky State director.

The Superior Service Award is the second highest award bestowed by the U.S. Department of Agriculture, and was presented to 57 individuals, 19 groups, and six teams representing USDA employees from all across the Nation.

A native of Adair County, KY, Ms. Baron has been with FmHA for 10 years. She has served previously as an assistant to the Administrator here in Washington, DC, and as director of FmHA's legislative affairs and public information staff from 1984 to 1986. She has been FmHA Kentucky State director since 1987.

For the past 2 years, Kentucky has ranked near the top in national farmer program goal accomplishments. As FmHA State director, Ms. Baron was the first director to conduct farm loan reviews before approval to minimize processing errors and poor quality loans and the first to require farm loans to be reviewed in the State office. As a result, delinquency rates have dropped to 6.3 percent in 1991 from 31.4 percent in 1987.

In addition, the number of Farmers Home possessed properties resulting from borrower inability to repay, has been reduced to 15 farms today from 74 farms in 1987. This has resulted in a saving of over $600,000 for FmHA.

Ms. Baron also initiated a program of incentives to resell housing properties in the FmHA inventory. She was responsible for reducing the number of properties to 66 homes today from 471 properties in 1987.

Mr. President, such accomplishments are only a few examples of the outstanding leadership Mary Ann Baron has provided. Under her direction, FmHA offices in Kentucky have far exceeded national goals set by the agency. I would like to take this opportunity to congratulate Mary Ann and encourage her to continue her remarkable leadership.•

U.S. DEPARTMENT OF AGRICULTURE AWARDS

• Mr. DECONCINI. Mr. President, I rise today to recognize a few public servants who, in my opinion, merit our appreciation. Today the U.S. Department of Agriculture is paying tribute to these individuals for their outstanding service to the Department and their country, and I feel it is appropriate that we do so as well.

Being honored today at the annual U.S. Department of Agriculture Awards Ceremony here in Washington are the following Arizonans:

Receiving a Superior Service Award for outstanding success in providing fishing opportunities in the Phoenix area, especially for the physically challenged are Larry Forbis, group leader, and Donald A. VanDriel, Richard Uberuaga, and Todd Willard, group members of the Boulder Creek-Saguaro Lake Recreation Fisheries Improvement, Forest Service, Mesa, AZ;

Receiving a Superior Service Award for creative research in experimental biology and natural products chemistry leading to biorational, environmentally safe methods for controlling insect pests of agriculture and public health is William S. Bowers at the State Agricultural Experiment Station, Tucson, AZ;

Receiving Distinguished Service Awards for sacrificing their own lives in an attempt to save others during the Dude Wildfire, Tonto National Forest, June 26, 1990, are Joseph L. Chacon and James L. Denney of the Forest Service, Perryville, AZ;

Receiving a Superior Service Award for livesaving actions during the Dude Wildfire, Tonto National Forest, June 26, 1990, are Paul A. Gleason, group leader, and Del B. Starks, Evelyn N. Miller, Paul J. Linse, Rodney L. Goss, James P. Mattingly, Bill C. Moe, David J. Niemi, Bill McGonigle, Bob Kessler, Mike Velasco, Paul Mitchell, and Bob Scopa.

Please join with me in taking this opportunity to commend these fine individuals for their outstanding service to our country. I trust that I speak for

the entire U.S. Senate in extending our heartfelt appreciation and gratitude for their unique contributions and efforts.•

EXCERPTS FROM THE COMMITTEE REPORT ON THE FEDERAL TRANSIT ACT OF 1991

• Mr. CRANSTON. Mr. President, I ask that excerpts of the committee report on the Federal Transit Act of 1991 be printed in the CONGRESSIONAL RECORD.

The excerpts follow:

THE FEDERAL TRANSIT ACT OF 1991

Mr. Riegle, from the Committee on Banking, Housing, and Urban Affairs, submitted the following report together with Additional Views (to accompany S. 1194).

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill (S. 1194) to amend the Urban Mass Transportation Act of 1964 and for other purposes.

LEGISLATIVE HISTORY OF THE ACT

The Committee on Banking, Housing, and Urban Affairs, to which the bill was referred, approved the bill on June 6, 1991 by voice vote and the Committee recommends that the bill as amended do pass.

The Federal Transit Act of 1991 (S. 1194) incorporates proposals developed over a period of more than six months in consultation with the Administration and leading transit authorities from across the country.

On October 26, 1990, Senators Alan Cranston and Alfonse D'Amato, respectively the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs, invited a wide variety of organizations and individuals concerned about mass transit to suggest ways in which federal policy could be improved to respond more effectively to emerging transportation needs. More than 80 responses were received from 27 states and the District of Columbia, including states in every region of the country. Responses were received from state and local transportation authorities, associations of elected officials and transportation agencies, organized labor and private industry. The recommendations were published in January 1991 as the *Report on the Federal Mass Transit Policy—Views and Recommendations* (S. Print 102-6).

On March 13, 1991, the Subcommittee on Housing and Urban Affairs convened a national symposium in Washington to review the Administration's transit legislation and other policy recommendations received by the Subcommittee. Participants in the Symposium included many of the country's top transit experts. Welcoming remarks were offered by Senators Donald Riegle, Alan Cranston, Paul Sarbanes and John Heinz. Keynote addresses were delivered by Richard Daley, Mayor of Chicago, and Kathy Whitmire, Mayor of Houston. Major papers were presented by: Alan Kiepper, APTA chairman and President of the New York City Transit Authority: Michael Meyer, Professor at Georgia Institute of Technology; William Millar, Executive Director of the Port Authority of Allegheny County; and James Cowen, General Manager of Tri-County Metropolitan Transportation. Panels of other transit industry experts reviewed and commented on the papers.

On April 17, 1991, the Subcommittee released a discussion draft entitled the *Metropolitan Transportation Initiative* that outlined a number of legislative proposals the Subcommittee had developed as a result of the national symposium and in consultation with leading transit practitioners. The draft outlined a 4-point program of refinements to current policy that would:

Give each metropolitan area responsibility to develop a long-term transportation strategy that integrates alternate modes of transportation, showing particular attention to transportation needs that affect national objectives;

Assure each metropolitan area of its fair share of federal highway and mass transit assistance up front, and enable the area to select the projects that carry out its transportation strategy most efficiently;

Create a "level playing field" for local choices of transportation projects, removing conditions that create improper biases against transit when it is the most efficient, long-term use of transportation resources; and

Open the way to improved methods of project management and financing so that state and local governments can implement their transportation strategies more quickly and cheaply.

The discussion draft was distributed widely so that recommendations for refinement could be incorporated in the Committee bill.

The Subcommittee on Housing and Urban Affairs held 8 hearings throughout the country between August 1990 and April 1991. The hearings reviewed issues to be resolved in the new transit authorization, including: the nation's changing transit needs; the role of federal, state and local governments; and the impact on transit of the Clean Air Act Amendments and the Americans with Disabilities Act. Included were four days of field hearings. On August 6 and 7, 1990, Senator Alan Cranston chaired two hearings, one in Los Angeles and one in San Jose, California, with witnesses representing state and local governments, UMTA, California DOT, environmentalist and local transit industry officials. On February 12, 1991, Senator Bob Graham chaired a roundtable hearing in Tampa, Florida with witnesses representing Florida DOT, UMTA, the Florida Transit Association, environmentalists and other groups. On April 23, 1991, Senator Dodd chaired a hearing in Bridgeport, Connecticut, with witnesses representing private transit companies, local operators and businesses. These field hearings elicited testimony on ways to mitigate congestion, improve funding, preserve our environment and enhance our nation's transportation policies through better coordination among transportation modes.

The Subcommittee also held 4 hearings in Washington. A hearing on March 15, 1991 received testimony on the Administration's transportation proposals from UMTA Administrator Brian Clymer and several transit operators responding to the Administration's proposal including: Lou Gambaccinni, Southeastern Pennsylvania Transit Authority; Wes Watson, Florida Transit Association; Frank Wilson, Bay Area Rapid Transit District; Peter Stangl, New York Metropolitan Transportation Authority; and Gordon Aoyagi, Montgomery County Division of Transit Services. A roundtable hearing on April 17, 1991 reviewed proposals in the Subcommittee's discussion draft *"Metropolitan Transportation Initiative"*—including a wide range of witnesses including academics to DOT officials and national environmental groups as well as rural and urban transit operators. A hearing on April 18, 1991 received testimony from panels of witnesses regarding rural transit, transit needs of elderly persons and persons with disabilities, and the transit implications of the Clean Air Act amendments. A hearing on April 24, 1991 provided a detailed discussion of ways to improve capital investment in transit, with participants representing labor and metropolitan transportation systems.

Subcommittee staff held on-site policy discussions with transit operators—including operators of rail, bus, and paratransit systems—in New York, Philadelphia, Baltimore, Detroit, Las Vegas, the San Francisco Bay Area, Sacramento, Los Angeles, San Diego, Honolulu and several other communities. Staff reviewed provisions of the Committee bill on numerous other occasions with representatives of transit systems with a wide range of operating characteristics from many regions of the country.

The Committee bill incorporates the best suggestions from all of these hearings and discussions.

NEED FOR THE LEGISLATION

Twenty five years ago, when Congress first acted to strengthen public transit, the consequences of federal neglect had become ominous. Public transit systems were failing across the country. Transit facilities were in disrepair and inefficient. Fares were skyrocketing, ridership was plummeting.

In the intervening years, mass transit has become an increasingly vital source of mobility for communities of all sizes—based on a strong partnership between government and the private sector. Mass transit now serves millions of Americans with a wide array of services—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

Despite past improvements, the unmet need for modern, efficient public transit is even greater today than it was 25 years ago. The Surface Transportation Efficiency Act of 1991 now before Congress provides an important opportunity to begin closing that gap. The Committee bill is intended to be a key title in the legislation, fitting well with the work of the Committee on Environment and Public Works and other committees of the Senate.

For the first time in thirty-five years, Congress is able to consider the future of federal transportation policy without the cost burdens of completing the interstate highway system. The nation now has that vital asset. It needs to be preserved.

The interstate commitment was based on the Eisenhower era dream that we could achieve nationwide mobility by building bigger and better roads to accommodate more and faster motor vehicles. We now also know the dream of thirty-five years ago can carry us only so far—and then it creates severe problems. In our major economic and population centers, more highways do not bring mobility—new highways tend to generate new congestion.

As Jessica Mathews, of the World Resource Council wrote. "We now know that new roads generate more traffic than they serve. . . . We now know that we cannot build roads fast enough to meet demand under a highway-only policy." [The Washington Post, May 12, 1991]

The costs of highway construction are far greater than the $129 billion in direct spending on the interstate system.

We pay the cost through increasingly intolerable traffic congestion in the nation. Main roads are choked to capacity in peak hours, and America's workforce spends millions of hours each day in traffic gridlock.

The General Accounting Office (GAO) has noted that congestion costs Americans annually (GAO, May, 1991). According to the Urban Mass Transportation Administration, if just one out of every five single drivers switches to a higher occupancy mode, congestion costs would be reduced by 60%.

We pay the cost through rising and atrocious air pollution in America. Some 112 million Americans live in areas where the air quality standard is exceeded. Two recent studies by the University of Southern California made the shocking finding that "children raised in the South Coast Air Basin already had 10 to 15 percent less lung function by the time they were in the second grade than youngsters growing up in relatively smog-free Houston." [LA Times, April 29, 1991]

We pay the cost through over-reliance on foreign oil. The Department of Energy reported that in the first 11 months of 1989, the cost of imported energy—primarily oil—represented 38.5% of the $102.4 billion trade deficit. Although attempts to increase fuel economy must continue, achieving real reductions in oil dependency will require alternatives to a one-person-per-vehicle transportation system. Each additional person who chooses to commute by car requires an extra 200 gallons of gasoline per year. Increasing transit ridership by 10% in the five largest metro areas would save 85 million gallons of gas a year. A bus with as few as seven passengers is more fuel efficient than the average commuter automobile.

These problems will only worsen if we continue current transportation policies. Although some states may not yet have a highway-related crisis, many do, and the trends are ominous throughout the country.

Continuing with a narrow-viewed highway policy will lead the country up a blind alley. The Senate must find a better path. Improved and expanded public transit must be a larger part of the country's transportation.

The Committee believes that this transportation bill can move the country toward a more balanced, integrated and efficient transportation system. It can help link highways, mass transit, ports, railroads and airlines. It can help move goods more efficiently within urban centers and to distant markets. It can help people move quickly to and from home, jobs and other destinations.

OVERVIEW OF THE COMMITTEE BILL

The Committee bill would make a number of important changes in transportation policy.

First, the bill would provide comparable funding increases for highways and public Transit. Over the past decade, federal aid to public transit was cut from $4.6 billion in fiscal 1981 to $3.2 billion today. After inflation, that's a cut of 50 percent.

The Committee is concerned that the Administration's transportation proposal would expand highway spending by 39 percent but would hold funding for public transit essentially flat. The Administration bill suggests a token increase in the last year of the authorization, but after inflation, mass transit would continue to be cut for five more years.

The Committee has also not accepted the President's scheme for running down the trust fund balance over a five or six year period. The Committee believes it would be unwise to take an approach that could throw transit funding into grave uncertainty within a few years. The Committee bill will provide transit with sources of funding that can be sustained on into the future.

The Committee bill would provide real growth in transit funding—equal to the increase provided for highways. Both the discretionary grant program and the formula grant programs would be funded partly out of the transit account of the highway trust fund and partly out of general funds. This would dramatically increase the payments that many states would receive from the mass transit account.

Second, the bill would open up the highway trust fund so that highway and transit dollars can be used to improve mobility in the most efficient way—whether that is with roadways, transit, or some multi-modal solution.

The Committee recognizes that, in some areas, new roads may be the answer. But in many of the country's most populous areas, mobility would be improved much more efficiently through investment in better mass transit—or perhaps through ramp-metering, HOV lanes, or car pool programs. Metropolitan areas would be able to choose the best use of scarce federal transportation assistance.

The Committee shares the concerns of many who are uneasy about funding flexibility because, historically, the highway interests have had such dominant power in many states. But the Committee believes its bill provides flexibility where it is most needed—in those metropolitan areas that are struggling with severe problems of congestion and air pollution. And the bill does so with adequate protection so that funds will not be drained from basic transit needs.

Third, the Committee bill would help the country get a bigger "bang" of transportation service for every transit buck that *is* made available. One section of the bill would improve full funding contracts to stretch available funding over more projects and enable transit operators to finance and manage long-term projects more efficiently. Another section of the bill would permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. Yet another section of the bill would provide new authority that is needed for "turnkey" procurement of high technology transit systems.

Fourth, the bill would address the differing needs of mass transit systems across the country. Some cities have a great need to build new transit systems—for them, the bill would improve capital project management. Other cities have mature transit systems and need assistance in operating, modernizing and extending their facilities—for them, rail modernization would be distributed on a more predictable formula. All cities need adequate bus service—for them, funding for bus procurement would be increased. The bill reflects the needs of smaller communities and rural areas—funding for rural transit would be more than doubled.

Fifth, the bill would give priority to maintenance of our existing infrastructure. The Senate's highway title provides protection of the interstate investment and maintenance of our bridges. The public transportation title will also provide for adequate maintenance of our public transportation services.

Sixth, the Committee bill would give metropolitan areas responsibility to develop comprehensive strategies for meeting their long term transportation needs. Integrated transportation planning is especially important in areas with severe air pollution and traffic congestion. But the Committee believes that will only work if metropolitan areas are allocated a fair share of federal transportation aid and are given authority to select projects for new or expanded capacity. Projects will be approved through a comprehensive *local* decision making process in which states and other interested parties participate. This authority to approve capacity expansion projects need not be given to every metropolitan area, but the bill will give that authority where it is needed: in those areas that are trying to carry out a comprehensive strategy for reducing severe congestion and air pollution.

Seventh, the bill would remove the bias against the choice of the most efficient use of federal transportation funds. Federal policy now stacks the deck heavily against public transit. Under the Committee bill, metropolitan areas would have a "level playing field" when they choose among transportation modes. Application procedures will be more standardized.

Extra transit requirements for alternatives analysis and some other application steps would be waived if Section 3 funds would be less than one-third of a project's cost—and federal highway funds could be used to reduce funds required under Section 3.

State and local match requirements would be more uniform across alternative transportation solutions. The bill would apply the highway match requirements to public transit projects—that is a 75/25 match for new capacity; and an 80/20 match for maintenance activities and more efficient use of existing systems.

Finally, the bill would reinforce the Clean Air Act, the Americans with Disabilities Act and other improtant national objectives. The Committee bill would prevent some provisions of the Clean Air Act from having the unintended effect of diverting federal transportation assistance away from areas of the country that have the greatest congestion. The bill would also encourage research, testing, and technical assistance in implementing low-cost transportation demand management strategies that can improve air quality while reducing traffic congestion. And the bill would prevent some requirements of the Americans with Disabilities Act from having the unintended effect of weakening transit systems that are already financially strained.

COMMITTEE DELIBERATIONS

The Committee bill in reporting with amendments to "The Federal Transit Act of 1991" (S. 1194), introduced by Senators Alan Cranston, Donald Riegle and Alan Dixon on May 24, 1991. The Committee bill incorporates proposals in the Administration's "Surface Transportation Assistance Act of 1991" (S. 610). An it includes provisions of "The Federal Mass Transportation Act of 1991" (S. 1160), introduced on May 23, 1991 by Senators Alfonse D'Amato and Arlen Specter.

The Senate Committee on Banking, Housing and Urban Affairs held a mark-up of the bill on June 6, 1991. The Committee adopted by voice vote a package amendment number 17 offered by Senator Cranston. The package included 12 amendments suggested by Senators Donald Riegle, Paul Sarbanes, Alan Dixon, and Bob Graham, as well as by the Administration and others. The Committee adopted by voice vote amendment number 1 offered by Senator Connie Mack to change the census data used in distribution formulas from 10 years to four years by voice vote. The Committee also adopted by voice vote amendment number 5 by Senator Bob Graham to have 1990 census figures applied to fiscal year 1992 formula allocations. The Committee then ordered the bill favorably reported by unanimous voice vote.

EXPLANATION OF THE COMMITTEE BILL

Title and Agency Name Change: The Committee bill would amend the name of the underlying law from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act".

The Committee bill would amend the name of the Urban Mass Transportation Administration to the "Federal Transit Administration".

Findings and Purposes: The Committee bill would add a new finding that significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

The Committee bill would also adopt the objective of providing State and local governments with the financial resources to help implement national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Authorizations: Federal transit funding has been cut from $4.6 billion in 1981 to $3.2 billion today. After inflation, that is a cut of more than 50 percent. During this period, the disparity between transit and highway funding has grown considerably. In 1981, the federal highway program was twice the size of the federal transit program. Today, it is five times as large. The Committee noted that the Administration's proposal would increase highway funding by nearly 40 percent over the next five years but would provide virtually flat funding for transit—which would mean a continued reduction in real terms. The Committee strongly believes that these funding inequities between highway and transit should not be further exacerbated.

The Committee bill would authorize slightly more than $21 billion over the 5-year period covered by the bill. Authorization levels increase at the overall rate proposed by the Administration for total transportation funding—an average annual increase of about 7 percent. Thus, transit programs would receive funding increases comparable to those proposed for highway programs.

UMTA Administrator Brian Clymer, in testimony before the Senate Subcommittee on Housing and Urban Affairs, estimated that the transit need justifies a $7.7 billion annual program. Other estimates, by the American Public Transit Association, indicate that an annual federal transit investment of $11 billion would be necessary adequately to maintain and expand existing service, meet the growing demand for new service and fulfill the requirements of the Americans with Disabilities Act and the Clean Air Act Amendments of 1990.

The Committee recognizes that the authorization levels proposed in this bill will not fulfill the need for transit investment. The recommended levels do, however, reflect a reasonable expectation of the availability of general funds and a responsible plan for spending balances in the transit trust fund. The Committee has also worked to improve programs, throughout the bill, to maximize the benefit of funds that are made available.

The Committee bill proposes two significant changes to spending from the Mass Transit Account of the Highway Trust Fund.

First, the Committee bill would restructure funding sources to support all transit programs with a blend of funding from the trust fund and general funds. Under current law, the section 3 new starts, rail modernization, and bus discretionary programs, the section 16(b)(2) elderly and handicapped transit program and the section 8 planning program are funded from the mass transit trust fund. Sections 9 and 18 formula programs are funded primarily from general revenues. Historically, the formula programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. The bill would revise this practice and use the Transit Accounts of the Highway Trust Fund to finance about 60% of the formula grant programs. This change benefits most states by increasing the amounts they receive from the Transit Account and placing formula and discretionary grants under equal budgetary pressures in the appropriations process.

Second, the Committee bill would substantially increase the amount of overall transit funding drawn on the Transit Account of the Trust Fund. As of January, 1991, the mass transit account of the trust fund had an unexpended balance of $7.156 billion and an uncommitted cash balance of $3.57 billion. The Administration's bill proposed shifting funding for mass transit programs entirely to the trust fund. Under that scenario, only $425 million in uncommitted balances would remain in the trust fund at the end of this authorization bill. Congress would then have to scale back mass transit assistance sharply, increase fuel taxes or move mass transit back as a claim on general revenues.

The Committee bill would keep payments from the Trust Fund at a level that permits stable, long-term program operation without depleting the Transit Account. A larger portion of the overall transit program would be funded from the trust fund; the current 43% of the transit program funded from the trust fund would be increased to 53% in fiscal year 1992, and rise to 57% in fiscal year 1996. But, spending from the trust fund would not exceed revenues received from taxes and interest accruing to the trust fund in each year.

MASS TRANSIT ACT—COMMITTEE PRINT

[In thousands of dollars]

	Fiscal year 1991	Administration 1992	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996
Sources of funds:							
Soc. 3 capital grants:							
Trust fund	1,200,000	NA	535,000	580,000	680,000	750,000	835,000
General funds	213,000	0	775,000	780,000	798,000	828,900	850,400
Subtotal sec. 3	1,413,100	NA	1,310,000	1,360,000	1,478,000	1,578,900	1,685,400
Formula grants and other							
Trust fund:							
Contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,500	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All grants:							
Trust fund:							
Contract	1,400,000	350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Uses of funds:							
Sec. 3 capital grants:							
Rail modernization	455,000	(1)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(1)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants:							
Sec. 9 and 9B:							
Rail modernization	(2)	600,000	(2)	(2)	(2)	(2)	(2)
Bus	1,156,427	1,446,106	1,330,032	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410
Subtotal sec. 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2,637,005	2,817,845

MASS TRANSIT ACT—COMMITTEE PRINT—Continued

[In thousands of dollars]

	Fiscal year 1991	Administration 1992	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996
Planning and research:							
MPO's	45,000	(3)	52,637	54,635	56,830	60,620	64,670
State program		62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative		(3)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(4)	5,851	6,071	6,314	6,736	7,186
Administrative expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA Program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

[1] Section 9.
[2] Section 3.
[3] State.
[4] TP&R.

Improving Capital Investment in Transit

Investment in needed transit. A principal objective of the Committee bill is to accelerate efforts to improve transit systems with a national commitment that corresponds to the urgent challenge to increase mobility, clean the air and reduce reliance on imported oil.

Federal support for transit throughout most of the past decade has fallen far short of the need. Federal transit assistance was cut by 50 percent in real terms. Opponents of federal transit assistance have argued that transit should be a state and local responsibility and that the federal interest can be limited to interstate and interregional transportation. The Committee finds that to be specious reasoning. Since interstate highways attract heavy commuter traffic in our major economic and population centers, the ability of federal highways to offer interstate mobility is profoundly degraded when we fail to provide adequate and balanced transportation systems using all modes of transportation, including transit, to relieve congestion. Achieving that integrated transportation system must be the shared responsibility of all levels of government.

Breakdown of existing procedures. Current federal transit procedures are inadequate to support the investment that will be needed over the next decade. The system is breaking down. Problems with the Section 3 new start program are symptomatic of obstacles to sound rail modernization and bus investment as well.

Section 3 new start applications now in preparation lay claim to current funding levels for the next quarter century. The Administration itself supports funding for twelve projects that have already completed alternatives analysis and are in final stages of development. Those projects alone will require total federal assistance of $2.53 billion, or three-quarters of a billion more than the Administration has requested for the next five years. The Administration estimates that forty projects in the new starts pipeline could require federal assistance in excess of $5 billion. Another $13 billion in projects are currently in systems planning.

In recent years, UMTA has tried to cope by both creating administrative hurdles to delay project approval and chopping large projects into small segments that can be accommodated within available funding levels. Both of these mechanisms hinder the expansion of transit and run up long-term project costs. Time is running out on delaying tactics as an increasing number of important transit projects approach the time when construction can begin.

Faced with these obstacles, cities struggling with air pollution and congestion have sought with growing desperation to expedite federal project approval. More and more seek to circumvent UMTA procedures by getting advance earmarking of funds by Congress. At best that can be a solution for only a few projects—not everyone can jump to the head of the line. And advance earmarking works against the effective use of transit funds provided by Congress. Scarce transit dollars that are set aside for one project often sit idle for years while the project clears the hurdles for final approval. In the meantime, funds are denied to meritorious projects that are ready to begin construction.

Important new management tools. The Committee expects the Federal Transit Administration forcefully to resist project proposals that are unsound public investments. But the Committee intends that, during this authorization cycle, the Federal Transit Administration will become a more effective partner for transit and will accelerate sound transit projects efficiently through to completion.

The Committee bill provides the Federal Transit Administration with several important new tools to fulfill this responsibility. The bill has several provisions to improve project management and financing so that transit operators can more quickly and cheaply implement capital investment called for in their transportation strategies. These reforms are intended to benefit all major transit investment, including new start, rail extension, rail modernization and bus investment. Procedural reforms in the Committee bill conform with federal budgetary controls and will make more effective use of scarce federal transit assistance.

In general, the Committee bill enables the Federal Transit Administration and transit operators better to manage the long-term commitments that are required for major transit investment. Several mechanisms are provided or improved as noted in the following sections.

Full Funding Contracts. UMTA administratively has developed full funding grant agreements or full funding contracts (FFCs) with the principal objective of limiting federal obligations with regard to major projects. Under current FFC practice, UMTA and a grantee enter into a contract that (1) obligates a specific amount of federal assistance, often for the first year only, and (2) includes a commitment to obligate additional amounts contingent upon the availability of funds in future years. The contract commits the grantee to complete a project segment within a specified time period, for a specified cost. The grantee is required to complete the project with the grantee's own funds if federal appropriations are not available. FFCs are a useful tool, but they are directed onesidely to limitation of federal expenditures and are not well designed to enable grantees to manage long-term projects most efficiently. They force grantees to horde federal transit funds both in anticipation of and after receipt of an FFC. FFCs are limited to the remaining authorization in the most recent authorization bill, so they become less and less useful toward the end of an authorization period.

The Committee bill would authorize full funding contracts in statue, as requested by the Administration, with important refinements. The Committee bill would make it clear that the Secretary is responsible for structuring an FFC not only to establish the terms and conditions of federal financial participation in a project and the maximum amounts of federal financial assistance for the project, but also to facilitate efficient and expeditious management of an approved project through to completion in accordance with federal law. The Committee intends that the FTA become a full partner with the grantee in providing improved transit services.

A central objective of the Committee bill is to enable FTA in the future to enter into the longer-term commitments that are needed for grantees to manage major capital investment projects in a more businesslike way than is possible under current federal procedures. Current practice tends to limit federal approval to the smallest feasible project segment. The Committee bill would enable a grantee to get approval for orderly implementation of an optimum economic project segment, when that would in the long run be more cost-effective and provide significant benefits of congestion relief and air pollution control. In no event could federal approval for a fixed-guideway project be given for less than an operable segment.

Under the Committee bill, as under existing law, any federal funding obligation would be limited to amounts that are provided in advance in law. The Committee fully expects and intends the continuation of current practice under which such amounts are provided in advance in appropriations acts, either as obligational limits on contract authority or as appropriations from the Highway Trust Fund or general funds. The Committee bill explicitly provides for that limitation, and nothing in the Committee bill has the effect of permitting obligation of

budget authority in excess of that limitation.

Existing law recognizes that orderly development and implementation of major capital investment requires federal commitments in addition to the binding obligation of funds. These commitments have been provided in various forms through letters of intent. The administration has also increasingly relied on full funding contracts, sometimes called "full funding grant agreements", to formalize the necessary commitments, which under current practice may include a commitment to obligate funds in future years subject only to the availability of funds in those years. The Committee agrees with the Administration that the statute should explicitly authorize full funding contracts along with letters of intent.

The Committee bill makes it clear that (1) full funding contracts can obligate specific amounts of budget authority and (2) they may also make conditional commitments to obligate specified additional amounts of budget authority that will be needed in the future to complete the approved project covered by the full funding contract. For example, if a fully approved project is to take six years to complete, the full funding contract could obligate budget authority sufficient for, say, the first three years and include a contingent commitment to obligate in year three an additional amount needed to complete the project.

The Committee notes that contingent commitments explicity authorized in the bill would not be different in kind from the contingent commitments that have been provided under administrative practice in full funding grant agreement. The importance difference is that the Committee bill would (1) permit the contingent commitments to cover a significantly longer period of time to accommodate more effective managment of capital projects within annual budgetary constraints and (2) use a limitation on the volume of outstanding contingent commitments that more reasonably reflects Congressional intent that sound transit projects be developed in a stable, ongoing review process and carried out expeditiously.

Under the Committee bill, federal reimbursement could be made over a longer period than is needed for project construction, if that is needed to complete a large project efficiently. These conditional commitments would be subject only to the future availability of budget authority provided in law. That is, if a future Congress has not provided sufficient budget authority for projects of the type covered by the letter of intent, the federal government would not have a legal obligation to provide the funding. Any contingent commitment, however, would be fulfilled so long as the budget authority has been provided in advance of that future date.

This provision of the Committee bill would provide FTA with a project management tool similar to the one provided to FAA in the Airport Improvement Act of 1987. That act authorizes FAA to support large, multi-year airport projects that could not be accommodated within funding levels available annually. FAA letters of intent now allow airport authorities to begin work in a timely and efficient manner using funds provided locally or borrowed in the capital markets. The letter of intent makes a contingent commitment to provide federal reimbursement over several years. This system gives the FAA the ability to manage a volume of large projects in a sound manner. The FAA letter of intent does not create a legal obligation of federal funding. Instead, it formally states FAA's intention to fund a specific project under specified conditions in the future so long as funds are appropriated and available for the relevant activity.

The letters set out a proposed schedule of federal expenditures based on FAA's estimate of funding that is reasonably likely to be made available in the future. The Committee believes that such a mechanism is even more needed for transit projects, which often require even longer periods of time and larger amounts of financing for implementation.

The Committee is aware that FAA policy limits projected reimbursements, under all outstanding letters of intent, in any given year to 50 percent of funding that is reasonably estimated to be made available in that year. This limitation is used so that in future years the administration would not find its flexibility unduly constrained by contingent commitments made in prior years.

The Committee bill provides that project costs eligible for reimbursement under a full funding contract would include any interest or other financing costs of efficiently carrying out the project or a portion of the project. The bill specifies that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. This limitation is intended to promote prudent financial management decisionmaking.

The Committee intends that the Secretary administer these provisions, together with other project management reforms provided in the bill, in a way that greatly reduces the need for operators to seek advance earmarking of funds for sound transit projects.

Early systems work agreements. The Committee bill provides for early systems work agreements as an additional mechanism through which FTA could permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs.

The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract for the project will be entered into and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement. Such costs could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet revelant federal requirements.

Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

The Committee intends that these conditions will make the early systems work agreements a valuable tool for reducing the capital costs of transit in many circumstances; but will ensure that these agreements are used only in projects that can reasonably be expected to proceed.

Limitation on letters of intent and contingent commitments. The Committee bill ensures that the volume and content of contingent committees in full funding contracts and early systems work agreements are consistent with clearly expressed Congressional policy. It does so it a way that is a significant improvement over current practice.

Existing statute limits the total estimated amount of future Federal obligations covered by all outstanding letters of intent to the remaining authorization for the relevant activity under section 3, less an amount the Secretary estimates to be needed for other grants. This limitation rests on the assumption that Congressional support for transit is expressed by the total amount authorized in the most recent transit authorization bill, which typically includes 5 years of authorizations.

This measure of Congressional intent has had unintended and preverse consequences that undermine efficient development and implementation of transit service that Congress clearly does support. Under current practice, the limitation equals the total 5-year authorization at the start of the first year; then, with each passing year, the limitation sharply declines until it hits zero later in the authorization period. As a result, a project under consideration in the first year or two of an authorization cycle can easily be accommodated. But sound project proposals coming to fruition in the final two or three years of an authorization cycle, cannot be given equal treatment. Toward the end of an authorization cycle, meritorious projects are often forced to wait for months until a new authorization bill is passed and the window of opportunity springs open once again. Federal transit officials now operate as if Congress is likely to terminate federal transit assistance abruptly at the end of the authorization cycle, although Congress has never indicated an intention to do so. To the contrary, Congress has repeatedly acted in support of transit. The difficulty and cost of local response to urgent tranportation needs are greatly increased by federal programs that arbitarily go through start and stop cycles.

The Committee bill recognizes that Congressional support for transit is expressed not just through reauthorization of transit programs. Important evidence that Congressional intent is to provide stable federal support for capital investment in public transit is the creation of the special Mass Transit Account within the Highway Trust Fund in 1982, financed with dedicated gas tax revenues. As recently as 1990, in the Omnibus Budget Reconciliation Act, Congress increased tax receipts into the Transit Account.

The Committee bill therefore would limit the value of outstanding FTA letters of intent and contingent commitments in full funding contracts to (1) the total amount authorized for Section 3 or (2) 50 percent of the

uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, whichever is greater. The uncommitted cash balance includes the amounts received in the Mass Transit Account from taxes and interest earned in excess of amounts that have previously been obligated or committed. The total amounts covered in letters of intent, full funding contracts or early systems work agreements for a given use (i.e. new starts, rail modernization or bus) would be subject to the total of authorizations for such use, whether provided as contract authority or as authorizations of appropriations. Under this limitation, even in the extremely unlikely case in which a future Congress terminates subsequent transit assistance, Congress would have provided more than enough in the Mass Transit Account to cover all FTA commitments outstanding at that time.

This change in limitation would enable FTA to consider and approve projects much more consistently over time. As an illustration, under current practice, authorization levels in the Committee bill would permit FTA, right after enactment, to issue outstanding letters of intent and full funding contracts for new start projects up to a maximum of almost $3 billion, the total of the 5-year authorization for Section 3 new starts, less what is estimated to be needed for other grants. Over the course of the authorization cycle, the maximum volume cap on project commitments would fall each year to about $2.4 billion by fiscal year 1993, to $1.9 billion by fiscal 1994, to $1.3 billion by the end of fiscal 1995, to $1 billion by fiscal 1996, and to zero sometime during the last year of the authorization. In practice, these illustrative figures would be significantly affected by the actual pattern of FTA commitments.

The following figures illustrating the intended effect of the bill, show that FTA would work under a more stable ceiling as it considers projects that are ready for approval. At the Committee's request, the Administration projected uncommitteed cash balances remaining in the Mass Transit Account for future fiscal year as a result of the recommended authorization levels as follows: $4.1 billion at the end of fiscal year 1992, $4.5 billion at the end of fiscal year 1993, $4.8 billion at the end of fiscal year 1994, $4.9 billion at the end of fiscal year 1995, and $4.5 billion at the end of fiscal year 1996. The Committee bill's limitation on letters of intent and contingent commitments (at the higher of the remaining authorization or 50 percent of the transit account's uncommitted cash balance) would be roughly as follows: starting at almost $3 billion as under current law, and declining as under current law to $2.4 billion by fiscal 1993, but then leveling out at about $2.5 billion in fiscal 1994, $2.5 billion in fiscal 1995, and $2.3 billion in fiscal 1996. Note that the Committee bill does *not* propose that the remaining uncommitted cash balance be allocated among different section 3 programs (ie new starts, rail modernization and bus). The full amount available within the cap would be available for whatever project is under consideration. even more consistent ceiling throughout the authorization cycle. However, the Committee chose at this point the more conservative level of 50 percent.

Advance Construction Contracts. The Committee bill would amend the existing statute to avoid problems now inherent in advance construction contracts, which inappropriately force grantees to bet on inflation. Advance construction contracts (ACCs) were authorized in the 1987 Surface Transportation Act to permit grantees to proceed with approved projects using their own resources. UMTA agrees to reimburse the grantee for expenses and debt service up to the amount of inflation.

The authorization of ACCs has proven to be less useful than intended primarily because existing statute forces grantees to bet that inflation will be higher than their debt costs and unanticipated cost increases. Few grantees are willing to enter into an ACC on those conditions since, if they guess wrong on future inflation, they must cover any losses.

The Committee bill would make the ACC mechanism more workable by limiting federal reimbursement for financing costs to the most favorable interest terms that are reasonably available to the project at the time of borrowing. This provides a powerful incentive for prudent financial management without exposing grantees to undue risks in the event inflation behaves in ways that are not anticipated by market forces at the time of borrowing.

Turnkey Systems Procurement. The Committee bill would authorize the Secretary to approve system procurement on a "turnkey" or "Build-Operate-Transfer" (BOT) basis. Under turnkey procurement, a grantee would contract with a vendor to (1) build a transit system that meets specified performance criteria, (2) operate the system for several years to ensure acceptable performance of the technology, and then (3) transfer the system to the operator. It is a method used increasingly by municipalities for procurement of high technology systems, for example, by U.S. cities for major solid waste and energy projects, by airports for people-mover systems, and by European cities for major transit projects.

Conventional transit procurement regulations, assume that a grantee will do the basic systems engineering itself, setting specifications for each component and assembling the parts into a final operating system of the grantee's own design. Conventional procurement regulations require completion of an environmental impact statement and engineering prior to vendor selection.

These procedures block procurement of automated guideway systems, such as are being considered for Honolulu and Houston. These systems involve a package of several closely integrated technologies and are vendor-specific, that is each vendor typically uses a different technology. As a result, environmental impact analysis and engineering cannot be completed until the technology (and thus, de facto, the vendor) is selected.

The Committee bill directs the Secretary to develop regulations for a turnkey procurement process. The bill would allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Under turnkey regulations, therefore, section 13(c) labor protections and other federal requirements would apply to the completed project. Federal financial assistance under the FT Act would be made available when the recipient has complied with relevant Federal requirements.

The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, while those regulations are being developed, the Secretary would be authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year Procurement of Rolling Stock. The Committee bill would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as buses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

The Committee considered favorably a proposal to amend existing statute with language explicit authority for "buy-back" procurement, under which an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with non-federal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures. The Committee is concerned that many transit operators seem unfamiliar with ways in which currently sanctioned procurement procedures can be used to achieve the long term savings of maintaining a standardized fleet of high quality vehicles. The Committee expects the Secretary to inform all operators of these procedures and, if necessary, to streamline the procedures so that they are more workable for more operators.

The Committee bill would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

Commute to Work Benefits

The Committee bill would assert Congressional findings regarding commute-to-work benefits. Under the existing tax code, the use of alternative forms of transportation—such as mass transit, and shared-ride services—is discouraged by inequitable tax treatment. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 per month. If transit benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, relieve congestion and reduce air pollution. This section would affirm the need to provide equal benefits to employees commuting via private automobile or public transit.

Rail Modernization Formula: The Committee bill would make two fundamental amendments to the rail modernization program. First, the bill would establish a statutory formula for the distribution of rail modernization funds; under existing law, the program is distributed on a discretionary basis. The creation of a statutory formula will bring a predictability and certainty to the distribution of rail modernization funds that has been absent since the inception of the program. It is expected that the move to guaranteed apportionments will also enable transit properties to (1) gain greater access to private financing and (2) carry out capital projects in a more timely fashion.

Second, the bill would expand the coverage of the rail modernization program to include

historic rail systems as well as those "new" fixed guideway systems confronting the need for greater modernization. Historic rail systems are presently the exclusive recipients of rail modernization monies. These systems—generally inherited by public authorities after years of private ownership and neglect—continue to have large capital needs and, in the Committee's estimate, deserve to receive the bulk of federal modernization dollars. Yet many "new" fixed guideway systems are also approaching an age where major capital investments are needed if significant deterioration is to be avoided.

The Administration proposal would have permitted all "new" fixed guideway systems to participate under the rail modernization program. The Committee bill, by contrast, would define "eligible systems" as including only historic rail systems and other fixed guideway systems in revenue service for more than ten years.

The Committee strongly believes that the rail modernization program should remain well-targeted and well-defined. The primary purpose of the program would continue to be to fund large modernization projects for which section 9 funding is inadequate. That purpose would be undermined by allowing the participation of "new" systems that do not have substantial modernization needs. Such systems would most likely use rail modernization funding for routine maintenance activities. The existing distinction between rail modernization and Section 9 activities would, thereby, be lost—weakening the ability of supporters for both programs to argue persuasively for continued or expanded funding.

The Committee has chosen 10 years of revenue service as a convenient proxy for modernization needs. The Secretary would have the discretion to permit fixed guideway systems that have not been in revenue service for such period to participate—on a year-by-year basis—where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

The Committee formula adopts, with several modifications the three-tier distribution system recommended by the American Public Transit Association. The Committee notes that APTA conducted extensive negotiations and discussions among all affected transit properties in devising its recommended formula. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems.

The formula would work as follows:

Tier One—Hold Harmless for Historic Rail Systems. In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems would include those systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986–1990; and (2) received in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.

2 percent of the total amount would also be set aside for Pittsburgh.

The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.

Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems. The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula. All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

The Committee intends that the Secretary, in allocating funds under the revised rail modernization program, continue to take into account the special circumstances of the San Francisco area. The Committee intends that San Francisco's share under the Section 9 rail tier formula equal to the cumulative formula share of the three rail systems currently operating within the area. In addition, the Committee intends that the designated recipient in the San Fransico region—the Metropolitan Transportation Commission—retain the discretion to allocate rail modernization funds among the area's three rail systems as it deems appropriate.

The Committee intends that the Secretary establish guidelines for the expenditures of rail modernization funds that are consistent with the traditional purposes and activities of the program. Such activities have included the replacement, renovation or refurbishing of existing facilities and equipment to achieve appropriate levels of service, safety, capacity or reliability.

OTHER AMENDMENTS TO SECTION 3 CAPITAL GRANTS

Title Change. The Committee bill would rename section 3 of the Federal Transit Act to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program" to reflect the fact that Section 3 Rail Modernization assistance will be allocated by formula.

Grandfathered Jurisdictions. The Committee bill would clarify that all existing letters of intent, full funding grant agreements and letters of commitment that are in effect when this Act is enacted, will remain in effect notwithstanding other provisions of this Act.

The Committee intends that this "grandfather" clause will extend to the Westside Light Project in Portland, Oregon, as identified in section 328 of P.O. 101–516. The Committee directs that the extension of this project to the Transit Center in the City of Hillsboro, Oregon (subject to the regional decision documented in the regions preferred alternatives report) shall proceed under the existing terms and conditions. The Committee understands that progress on the Hillsboro extension will not preclude FTA from approving alternative analysis for other projects in the region.

Innovative Techniques and Practices. The Committee bill would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change simply codifies existing practice by incorporating language from section 4(i) of the Act into section 3.

Capital Grants Eligible Activities. The Committee bill would add to the list of eligible activities under section 6, the development of corridors to support fixed guideway systems. Grants could be used for bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements (such as dedicated bus lanes, high occupacy vehicle lanes, construction of park and ride lots) and any other improvements that would result in increased transit usage in the corridor.

Overmatch and Fiscal Capacity. The Committee bill would require the Secretary to take account of differences in state and local fiscal capacity if the Secretary gives special consideration in project approval for projects that "overmatch", or exceed the required state and local shares of project costs. The Committee intends to avoid placing distressed communities at an unfair disadvantage in the awarding of federal transit assistance. This change would maintain incentives for states and localities to contribute as much of the project costs from their own resources as is reasonable. The Committee bill also mitigates any inappropriate affects of "overmatch" by permitting highway funds to be used to reduce assistance requested under Section 3, as noted elsewhere in this report.

Capital Grants for Elderly Persons and Persons with Disabilities. The Committee bill would allow public transit agencies to apply for funding under the Section 3 grant program for capital transportation projects that are specifically designed to meet the needs of the elderly and persons with disabilities.

The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers. The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and, as a consequence, more costly. The Committee bill would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Allocations. The Committee bill would amend the statutory allocation of Section 3 funds that was established by the Surface Transportation and Uniform Relocation Act of 1987. The 1987 Act mandated that Section 3 grant funds be allocated as follows: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; 10 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities; and 10 percent for a Secretary's discretionary pot to be allocated among the three major activities.

The Committee bill would establish a modified allocation of Section 3 funds; 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities. The Committee has taken such action in recognition of the substantial bus needs anticipated over the coming five year period, particularly given the recent mandates of the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act of 1990.

Local Share. The Committee bill would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. Under current practice, UMTA recognizes as non-federal match only those commitments that are made after a project is approved. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

The Committee is aware of one fact situation that would be covered by this amendment. In 1989, the Maryland Department of Transportation placed an order for 35 light rail cars for the new Baltimore Light Rail system. The order was intended to supply 27 cars for the operation of the light rail line now under construction (the "main line") and an additional 8 cars for future use on planned extensions to the system. The inclusion of the 8 cars represented commendable foresight on the part of the State: it ensured that the entire rolling stock inventory on the main line and the planned extensions would be compatible and enabled the State to save money by ordering a larger number of cars in advance. All costs for the construction of the main line and the 35 rail cars have been paid entirely with non-Federal funds.

The State expects to file a Section 3 application for the new extensions in late 1991 and recently began to discuss with UMTA the possibility of Federal support. UMTA informed the State that the costs of the 8 cars could not be counted towards the required non-federal share because the order was placed before approval of an application for section 3 funds. A different resolution would have occurred if the State had ordered the rail cars after approval. Then, the 8 cars would be part of the Full Funding Grant Agreement and any funds expended for such cars could count toward the non-federal share.

The Committee has concluded that the costs of purchasing the 8 rail cars should count towards Maryland's satisfaction of the non-federal share requirements under section 3. The expansion of the purchase order in 1989 was a prudent decision that enhanced long-term project management and reduced costs; Maryland should not be penalized for such action.

The Committee notes the narrow scope of this amendment; it would merely clarify, in a limited way, the non-federal matching requirement contained under Section 3. The amendment would not change any requirements governing the eligibility of the extensions for federal funding. Nor does it affect the Secretary's discretion to approve or disapprove a Section 3 application for the extensions. Nor does it change the level of either the federal or the non-federal matching requirement.

CRITERIA FOR NEW STARTS

Elimination of biases. The Committee bill would eliminate biases in federal law that give state and local officials a disincentive against choosing the most effective solutions to local mobility and clean air problems, regardless of the transportation mode. Under current law, most jurisdictions have a strong incentive to choose highway construction rather than other transportation options because federal highway funds are so much easier to receive. Highway projects qualify for a higher federal match, local matching funds may be available only for highway projects, and transit projects have a more burdensome and time consuming approval process. As transit becomes more urgently needed in areas with severe air pollution and congestion, these biases in federal law become even more troublesome.

The Committee bill provides a more "level playing field" by relieving transit application review requirements under certain circumstances. FTA's consideration of local overmatch would be refined and linkage between transportation and air quality would be recognized. Equitable evaluation of each transportation alternative is necessary for flexible use of transportation funding, as provided in the Committee bill and the highway bill reported from the Senate Environment and Public Works Committee.

FTA Review Process. A key barrier to the choice of transit is the current approval process for major transit new start and extensions projects. This process was originally intended to provide information for allocation of scarce federal discretionary grants for transit. Over time, this has evolved into a process that itself serves as a grant rationing device designed to slow down all projects and keep applicants away from the window as long as possible. Under the previous Administration, federal cost-effectiveness thresholds were used to aggressively block construction of fixed guideway projects that the administration philosophically opposed.

Many transit experts have found the transit approval process narrow in scope, overly complex and excessively time-consuming. Federal procedures do not adequately recognize potential benefits of a transit project as reflected in reduced air pollution and energy consumption, increased economic development, improved mobility for transit dependent people, and relief of roadway congestion.

The Committee believes that transit grant approval process should weed out unsound projects without needlessly escalating costs on meritorious projects. Excessive approval procedures erode the buying power of federal assistance, makes it difficult to maintain a local consensus for transit, and discourage localities from carrying out the most effective transportation strategy. The Committee intends that FTA will assess current procedures and reduce unnecessary or excessive reports and requirements in the project development process.

The Committee bill would broaden the criteria used in evaluation of new starts projects to include consideration of a project's social, environmental and economic impacts. Administrative cost-effectiveness analysis has used changes in ridership as a proxy for other benefits derived from transit. The Committee bill would revise federal cost-effectiveness analyses to take explicit account of direct and indirect costs associated with each transportation alternative, including the costs of resulting air pollution, delay caused by congestion, and increased importation of foreign fuel. FTA would also give appropriate recognition to other benefits of transit—such as realistic expectations for economic development, increased mobility for transit dependent persons, and local efforts to support transit through land use and other policies. FTA would be expected to consider a community's efforts to facilitate the development, improvement and use of efficient transportation systems through existing land use policies and projected future patterns of development.

The Committee intends that these added criteria will receive equal consideration as existing indices in determining project worthiness. That is, a project would not have to meet existing criteria before these additional factors would be considered. The Committee further intends that the FTA consider the costs and benefits of transit and other alternatives on a long-range basis.

The Committee bill would adjust the numerical cost-effectiveness threshold used to rate projects so that it reflects inflation and regional differences in land, construction and operating costs. The Committee expects that, until updated indices are available, FTA would reflect inflation adjustments in current indices.

The Committee bill would clarify the meaning of "local financial commitment" and "stable funding sources" to ensure that transit providers can carry through on their commitment to develop and operate a new or expanded fixed guideway system without reducing existing levels of service. To meet the criteria for local financial capacity, a recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns; have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Committee did not include provisions recommended by the Administration to require the assessment of innovative project financing as part of the section 3 project development process. The Committee believes that consideration of alternative financing options is important, but should apply equally to all federal transportation investments. The Committee has, therefore, included these provisions in the transportation planning process described in this bill.

Overmatch policy. Under current practice, UMTA gives preference to applications that have state or local funding substantially above the required non-federal match. That policy is intended to ration scarce Section 3 resources and give preference to projects that are of very high priority at the local level. In practice, however, the policy places relatively poor areas at a disadvantage. The policy also greatly exacerbates the bias against transit projects by driving the required state/local share for transit projects well above comparable shares for highway projects. For highway construction projects the required match is the match, but for transit construction projects the required match is the *minimum* match. A community must often provide a local matching share at least the 25 percent match required in law if its project is to have a chance at approval.

The Committee bill would prohibit FTA from discriminating in the allocation of discretionary funds against communities that can't provide overmatch due to fiscal incapability.

The Committee bill would, however, provide incentives for communities with more available resources to contribute the greatest amount of local share reasonably possible. Project review processes would be expedited for applications that request Section 3 assistance of less than $25 million or less than one-third of the total costs of a project of program of related projects. These limits could be achieved by using higher levels of non-federal funding and allocating other federal transportation assistance to the project, such as federal highway assistance. Federal highway assistance could not be used for the required local match, but it could be used to reduce the need for Section 3 assistance to qualify for expedited project review and approval.

The Committee recommends that FTA, if giving preference to communities that overmatch federal requirements, identify and consider per capita indices of state and local project contributions, in addition to aggregate measures of contributions. This would provide a fairer assessment of the relative level of financial commitment from smaller urban areas.

Linkage with the Clean Air Act. The Committe bill would reinforce the important link between air quality and transportation that is recognized in the Clean Air Act, as amended. The new starts criteria and the limitation of development to one corridor at a time would be waived for transportation control measures required to carry out an approved State Implementation Plan (SIP) in extreme or severe non-attainment areas. In other non-attainment areas, review requirements would be expedited for such transportation control measures required in an approved SIP.

The Committee expects that this section would be implemented through formal public notice and comment procedures. The Committee further expects that this Committee and the House Public Works and Transportation Committee receive advance opportunity to comment on FTA's capital investment policy.

FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE

The Committee bill would establish a higher federal match for those projects that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilites (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The changes apply to projects funded under sections 3, 9, 16(b), and 18. The Secretary would determine the portion or portions of a project eligible for the higher federal match. The current federal match for capital projects is 80 percent under sections 9, 16(b) and 18 and 75 percent under section 3.

Projects eligible for the higher match would include, for example, the procurement of lift-equipped buses and vans; the acquisition of particulate traps; the construction or renovation of bus stops, terminals and transfer stations; or the construction of alternative fuels facilities.

The Americans with Disabilities Act requires the provision of special services and improved access to regular services for persons with disabilities. Under ADA, every transit vehicle, bus and rail car purchased or leased by a transit system must be accessible to persons with disabilities, including people using wheelchairs. Light, rapid and commuter rail systems must carry at least one accessible car on each train within five years. New "key" rail stations must be accessible within three years unless an exception based on high cost is met. Special on call services (complementary paratransit) must be available for those disabled riders who, due to the severity of their impairment, are unable to use a regular fixed-route system, even if it is accessible.

The Department of Transportation estimates the cost for all ADA transportation requirements to be between $850 million and $1.3 billion per year.

The Clean Air Act Amendments of 1990 will also have a major impact on costs of providing transit. The cost direct effect will be on urban bus systems (those bus systems which operate intracity in urbanized areas) which will have to lower their particulate matter emissions and bear the costs of bringing their fleets into compliance with the Act through the use of newer, cleaner technologies.

Estimates of the cost of compliance with the Clean Air Act Amendments vary, depending on the system or technology used. The costs associated with replacing buses upgraded to use clean alternative fuels range from $48,000 per bus for methanol fuel to $64,000 per bus for compressed natural gas. The estimated cost of replacing a bus equipped with particulate traps is $14,000. In addition, the estimated cost for replacing or modifying existing fuel storage systems to meet new federal guidelines runs as high as $1 million per system.

The combined costs to transit systems associated with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act will be significant. The Committee notes that the proposal submitted by the Administration contained only $50 million to assist transit providers with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act, and proposed reducing the federal share for these projects to 60 percent.

The Committee is aware that many transit systems may have difficulty meeting the costs associated with compliance. The Committee is also aware that the current state of the national economy and the fiscal distress faced by many states and localities may pose added burdens for transit systems already struggling with rising fuel costs and in some cases, reduced services.

The higher federal match included in the Committee bill recognizes the significant fiscal impact that compliance with the new federal laws will entail and attempts to provide transit systems with some assistance in meeting the goals of these federal mandates. The bill also recognizes the importance of transportation demand strategies as noted from section 108 of the Clean Air Act Amendments of 1990 and encourages research and technical assistance for these purposes.

Comprehensive Transportation Strategies

The Committee bill would reform the current transportation planning process to give more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. The Committee bill requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations. The Committee bill is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

The existing urban transportation program and planning process largely has been positive. However, the current environment, the nature of growth patterns, and transportation needs in metropolitan areas require a new surface transportation program architecture coupled with an enhanced transportation planning and investment decisionmaking process to address state, regional and local needs within the context of national policy objectives and strategies. The new process should provide for a new, more collaborative decisionmaking arrangement that actively engages the state, public transit operators, and local government officials.

The current Section 8 program follows the practice in the Section 134 metropolitan highway planning requirements for defining the planning area boundary, which is essentially the urbanized area within each metropolitan region. This practice makes sense when the original metropolitan planning requirements were crafted in 1962, but is inadequate today. Since that time, suburbanization and its attendant problems, including degradation of air quality, require an expansion of the metropolitan boundary to enable growth areas in the outer reaches of the metropolitan area to be assessed within an overall transportation and program. The need to include these growth areas was recognized in the recently enacted Clean Air Act Amendments which expanded the non-attainment boundary to include the entire Metropolitan Statistical Area.

The Committee believes that there should be an orderly evolution of a strengthened collaborative metropolitan planning and programming process. Effective collaboration requires full representation and participation of the state, local public officials, and the public transit operator(s) in the process. Because the Committee recognizes that within metropolitan area boundaries, growing suburbanization can lead to imbalances between addressing central city and suburban needs, the Committee has provided for assured representation of central cities on metropolitan planning agency. This special consideration for the needs of central cities should be reflected in the expenditure of funds as well.

In amending Section 8, the intent of the Committee is to provide for an orderly reassessment and redesignation of the planning agency and area by local public officials and the Governors over a reasonable period of time. The Committee recognizes the need for a phase-in process for redesignating Transportation Management Areas which are the larger metropolitan areas and areas which are not meeting ozone air quality standards. However, the Committee intends that the highest priority for redesignation of institutions and area boundaries should be given to the 96 non-attainment areas. In non-attainment areas classified as serious, severe or extreme, redesignation of Transportation Management Areas and their boundaries should occur within two years, with the balance of TMAs designated as soon as practicable but not later than four years after enactment.

Statement of national interest. The Committee bill declares Congressional intent that it is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary would be re-

quired to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

Metropolitan Planning Organizations. The Committee bill would require that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation would remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

The Committee bill would require each governor, when an MPO is designated or reorganized, to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor would have to certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas. The Committee bill would require the Secretary to designate certain metropolitan areas to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary would be required to publish and annually update a list of metropolitan areas that meet those criteria.

The Secretary could also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes.

The designation of a transportation management area would remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the Committee bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries. The Committee bill provides that the boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in noncompliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO determine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment area, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy. The Committee bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

The Committee bill would specify major elements to be included in a published strategy in contrast to existing statute, which specifies elements of a local planning process. The Committee believes the federal government should direct its attention to the *product* of a local planning process, leaving more discretion to states and localities to define the most appropriate process for arriving at that product.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements

of federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy. The Committee bill requires metropolitan transportation strategies to be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) project capital investment and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) indicate any proposed transportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Development of transportation improvement programs (TIP)

The Committee has provided that a Transportation Improvement Program is required to be developed by every Metropolitan Planning Organization. The TIP will include all federally-assisted projects and activities to be carried out within the metropolitan area. Section 8(c) further provides that in transportation management areas—those over 250,000 population and non-attainment areas—projects and activities funded under Section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act will be selected and approved by parties acting collaboratively through the metropolitan planning process. The projects that are selected through this collaborative process in Transportation Management Areas should reflect the highest priority needs and interests that would be served by using these funds in carrying out comprehensive transportation strategies and meeting national objectives. However, it should be noted that some projects are designated solely to preserve and maintain existing highway and transit facilities and activities, and are largely the programming responsibility of the state or public transit operator. The Committee does not intend for these projects to be subject to the metropolitan selection and approval process. These projects are required, however, to be contained in the Transportation Improvement Program for the metropolitan area.

The Committee intends that projects exempted from the selection and approval process be strictly limited to operations management, maintenance and preservation projects that do not add to the physical design capacity of facilities. Excepted projects would not include, for example, highway projects that provide for additional lanes, auxiliary lanes, or interchanges, rail extensions, new bus facilities, or new or extended bus routes.

The Committee bill would require an MPO, in cooperation with the state and relevant transit operators, to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

The Committee bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

The Committee bill would require an MPO, prior to approving a transportation improvement program, to provide citizens, affected public agencies, representatives of transportation agency employees, private providers to transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

A TIP would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

The Committee bill would require each governor to develop and submit to the Secretary a TIP for areas for which no MPO has been designated. The state TIP would have to cover a period of not less than 3 years and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance programs of the Federal-Aid Highway Act of 1991.

Approval of projects. The Committee bill would give the MPO in a transportation management area authority to approve all projects in the metropolitan area that would expand the capacity of the existing transportation system. The MPO would have to submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 or sections 3 and 9 of the Federal Transit Act.

When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4) (E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

The Committee bill would prohibit funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act from being used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO. That prohibition would not apply to projects

or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture. The Committee bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If the funds are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an application is pending under Section 3 of the Federal Transit Act.

Transfer of funds. Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Intergovernmental cooperation in planning. The Committee bill includes a provision in existing law that authorizes the Secretary to contract for and make grants to states and local public bodies and their agencies for planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

The Committee bill includes another provision in existing law that requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Funding for planning and project approval. The Committee bill would allocate planning funds to MPOs by formula with adjustments to take account of past levels of federal assistance and differences in responsibilities for planning. State planning funds would be provided as part of a new Section 26 State Program.

Under a basic formula, 80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the total apportioned under this formula. Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

The remaining 20 percent of the funds made available to MPOs would be allocated under a supplemental formula for Transportation Management Areas. These amounts would supplement funding for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

The Committee bill would ensure that each MPO receives no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

Amendments to Section 9 of the Act

Federal Operating Assistance. The Committee bill does not include the Administration's proposal to eliminate federal operating assistance for urbanized areas over 1 million in population.

The Committee heard compelling testimony that this is perhaps the worst time to eliminate federal operating assistance for the nation's large mass transit systems. Economic recession and rising fuel costs have already forced large systems to raise fares and reduce services. Eliminating federal aid would leave transit systems with the same dismal options since states and localities—caught in a fiscal crisis—could compensate for any loss.

Available evidence indicates that raising fares and/or reducing services would force many transit riders to shift to automobile use and thereby increase traffic congestion, energy consumption, and air pollution—in direct contravention of national objectives. Raising fares and/or reducing services would also place the greatest strain on the limited budgets of those populations (elderly, persons with disabilities, inner city poor) who are transit dependent.

The loss of federal aid would have a devastating effect on individual transit properties.

CTA (Chicago) would lose $40 million in federal operating aid. Fare increases of 15 percent would be needed to compensate for the loss.

SEPTA (Philadelphia) would lose $27 million in federal operating aid. SEPTA estimates that fares would need to rise 15% to offset the loss—causing ridership to fall 3% to 4%.

WMATA (Washington) would lose $16 million in federal operating assistance. WMATA has already announced fare increases of 18% over the next two years and anticipates that ridership on existing lines will fall 5%.

MTA (Baltimore) would lose $10 million in federal operating aid. MTA believes that state funds would need to be diverted from system preservation activities to compensate for the loss.

MARTA (Atlanta) would lose $5.4 million in federal operating aid. MARTA estimates that increasing the fare by 10 cents—the value of the federal aid—would decrease annual ridership by 2.6 million passenger trips. A fare increase would also hinder marketing efforts to encourage auto riders to switch to transit.

The loss of federal aid would also impede compliance with the recently-passed Americans with Disabilities Act. The largest portion of estimated costs under the ADA will be for providing complimentary paratransit service—the demand responsible service required for persons with disabilities whose impairment precludes them from using even accessible transit systems. Experts anticipate that operating costs will rise markedly as transit properties increase their provision of paratransit services.

By all accounts, the elimination of federal operating assistance would exacerbate the already weakened condition of large mass transit systems. It would also impede federal efforts to ensure and encourage compliance with a myriad of national objectives. The Committee has concluded that, in today's fiscal, economic, and regulatory climate, the elimination of federal operating assistance would be a hostile and irresponsible act. The Committee firmly rejects that course of action.

Federal Share. The Committee bill would not include the Administration's proposal to reduce the federal contribution for transit projects: from 80% and 60% for rehabilitation projects and from 75% to 50% for new starts and extensions.

Hearings before this Committee and the Joint Economic Committee have outlined the dire fiscal condition of States and localities. It is highly unlikely that State and local jurisdictions can find the funds to replace any lost federal contribution.

The recession has reduced state and local tax revenue—e.g. real estate and sales taxes—that support mass transit operations. New York City taxes for mass transit alone have fallen by $350 million.

State fiscal conditions are the worst in nearly a decade. Falling revenues and spiraling health-care costs have led to severe budget deficits. States are being forced to take desperate action to balance their budgets—including cutting support for mass transit.

Cities are more troubled. Long term trends—cutbacks in federal aid, increased social problems, economic restructuring, demographic shifts—underlie the current crisis. Financial pressures are nationwide: affecting cities as diverse as New York, Bridgeport and Philadelphia in the Northeast, to New Orleans and Jacksonville in the South, to Detroit in the Midwest and Los Angeles in the West.

The Committee strongly believes that, at a time of fiscal crisis and economic recession, the federal government must continue to play a strong role in the expansion, preservation and operation of mass transit.

Allocations. The Committee bill would make a technical correction to the percentage of funds set-aside for small urbanized

areas and large urbanized areas. Under existing law, the section 18 and section 9 programs are funded as percentage set-asides from one account. The current set-asides are as follows: the section 9 program for large urbanized areas receives 88.43 percent of the total account; the section 9 program for small urbanized areas receives 8.64 percent; and the section 18 program receives 2.93 percent.

The bill would alter the current system by providing for a separate set-aside for rural transit programs. The section 9 set-asides for large urbanized areas and small urbanized areas would, therefore, be proportionally adjusted to reflect this change. Henceforth, the section 9 program for large urbanized areas would receive 91.1 percent of the funds available for section 9; the section 9 program for small urbanized areas would receive 8.9 percent.

Discretionary Transfer of Apportionment. The Committee bill would permit transit funds to be used for highway purposes under certain circumstances. Section 9 formula funds for capacity expansion could be transferred to highway projects only in transportation management areas—metropolitan areas over 250,000 in population or in non-attainment under the Clean Air Act. Rural transit (Section 18), Elderly and Handicapped transit (Section 16(b)(2)) and Discretionary (Section 3) funds would *not* be eligible for transfer to highway projects.

The transfer of section 9 funds would be subject to the approval of the metropolitan planning organization after appropriate notice and comment from affected transit providers. Basic transit activities—including the sound operation and maintenance of existing transit facilities, the management of ongoing transit operations and investments required to comply with the Americans with Disabilities Act or the Clean Air Act—would have to be provided for adequately before transfer of funds could occur.

Transit funds would be eligible for transfer to highway uses only where the source of State or local share funding is available equally for both highway and transit projects. The Secretary would be required to ensure that either sources of State and local matching funds are equally available for highways and transit, or dedicated sources of matching funds are available for highway and transit projects in a way that avoids any bias against local selection of transit projects. The Committee intends to ensure that decisions to transfer transit funds to highway projects are not made on the grounds that dedicated matching funds are available only for highway projects but not for transit projects.

Elimination of Incentive Tier. The Committee bill would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. These provisions use the ratio of passenger miles to total operating expenses to allocate a small portion of formula funds. The incentive factors were introduced in the Surface Transportation Assistance Act of 1982 as a means of weighing and rewarding the operating efficiency of bus and rail systems.

The Administration recommended eliminating the incentive tier for three reasons.

First, the techniques used to collect the passenger mile data are difficult to verify and apply consistently among the nation's transit operators. Passenger mile data are not usually collected by transit systems as part of routine transportation operations, in contrast to other data (e.g. vehicle revenue miles) used in the Section 9 formula. In most instances, passenger mile data are obtained by sampling.

Second, the Administration can find no evidence that application of the incentive factors has induced any change in behavior among the transit operators.

Finally, the overall effect of eliminating the incentive tier would be insignificant. Slight percentage losses in some urbanized areas would, with a few exceptions, be more than offset by the increase in the authorized level for Section 9 funding.

Energy Efficiency. The Committee bill would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, 60% of the Section 9 rail tier pot is allocated on the basis of "fixed guideway revenue vehicle miles". Rail systems have found that this factor has the unanticipated effect of discouraging initiatives that lower energy consumption. A system, for example, that makes energy savings by running shorter trains in off-peak hours would experience a decrease in Section 9 funds due to a decrease in revenue vehicle miles. The decrease would take effect even if the system was still providing the same frequency of revenue service to the same number of riders. The Committee bill would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Applicability of Safety Program. The Committee bill would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Certifications. The Committee bill would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates. The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The bill would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Finally, the bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that the interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Program of Projects. The Committee bill would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Continued Assistance for Commuter Rail in Southern Florida. The Committee bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

The TCRA commuter line was established as a temporary congestion relief measure during reconstruction of a major interstate in south-eastern Florida. To help meet the operating needs of this commuter line, section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 permitted an increase in the Section 9 operating assistance cap for the urbanized areas of Fort Lauderdale and Miami, Florida. The increased operating assistance was specifically limited to commuter rail service "provided as a maintenance of traffic measure" during the reconstruction period.

The TCRA commuter line has proven to be successful and is expected to continue to operate beyond the completion of the interstate reconstruction. Recognizing the permanent status of the commuter line, this amendment would remove the limitations contained in Section 329 to enable TCRA to continue to receive federal operating assistance.

University Transportation Centers

In general.—In 1987 Congress authorized the University Transportation Centers Program to establish and operate transportation centers in each region of the country. The purpose of the centers is to conduct multi-modal research and training on the transportation of people and goods. A national competition established ten centers with the additional participation of 60 universities nationwide.

Over 313 research projects and 15 advanced institutes were established with the help of Federal funds and match funds. The Centers' unique structure fosters cross-university and inter-disciplinary collaboration. State and private sector participation ensures a focus on applied research and pathways for technology transfer.

The Committee bill would amend the responsibilities of university research to include safety issues. The bill would also establish three new lead university centers to accelerate the participation of minorities and women in transportation related professions. The Secretary would consider the commitment of the university to the enrollment of minorities and women when awarding grants.

Currently, one tenth of our nation's workforce is employed in transportation. The Committee believes these new universities would help to ensure the diversity and technical skill of this large workforce as well as continue critical advances in transportation research.

Rulemaking

Section 12(i) of the Urban Mass Transportation Act was added by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) to ensure that major statements of transit policy would be subject to formal rule-making procedures. The Committee bill would prohibit FTA from issuing policy in Circular form that is not subject to formal review procedures. FTA policy statements would also be distributed more broadly and with more appropriate notice than the Circular process would otherwise provide. Since enactment of this provision, several instances of the Administration's non-compliance with congressional intent have arisen. For example, the Third Party Contracting requirements and Cross-Border Leasing guidelines were issued without Federal Register notice and comment. Additionally, the Administration continues

to enforce several circulars governing major policy issued prior to passage of the 1987 Act which have never undergone public notice and comment. The Committee bill would clarify that all major statements of policy, except emergency rules, routine matters, or matters of insignificant impact, shall be subject to the process described in Section 12(i) of existing statute.

Transfer of Facilities and Equipment

The Committee bill would allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities or remaining useful life of the equipment and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of allowing the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

The Committee bill would also allow States the flexibility to the transfer facilities and equipment between the Section 18 rural transit program and Section 16(b) program for the elderly and persons with disabilities. Current law does not allow equipment transfers from one program to the other. Since close to 60 percent of the recipients of Section 16(b) funds operate in rural areas, this provision is designed to maximize the use of equipment for both programs. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

Elderly Persons and Persons with Disabilities

The Committee bill would clarify existing statute by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The Committee bill would also require an assurance from the state that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

The Committee bill would authorize assistance under this program to public bodies that are approved by a State to coordinate transportation services for the elderly and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the State to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services. Public bodies eligible to receive funding under this section could include, for example, county governments or commissions, county offices on aging, regional planning councils, and metropolitan planning organizations.

The Committee is aware that even with the funding increase for the Section 16(b)(2) program provided by the Committee bill, the capital needs under this program will continue greatly to exceed the available resources. The Committee does not intend to open the Section 16(b)(2) program to public agencies that have access to other transit resources such as the Section 3 and Section 9 programs. The Committee intends that public bodies will use funding under this program in a very narrow circumstance, such as when the public body is approved by the State specifically to coordinate transportation services for the elderly and persons with disabilities. In carrying out this provision, the Committee intends that existing law governing labor protections will continue to apply as appropriate.

The Committee bill would allow the Governor of each State to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to supplement funds distributed under either the Section 18 program or the Section 9 program.

The Committee bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The Committee bill specifies that the regulations shall be issued within 60 days of enactment of the bill.

Human Resources Program Support

The Committee bill would authorize the Secretary to retain any funds returned in connection with section 20 of the Act. Section 20 authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs within public transportation activities. These retained funds would in turn be made available for any human resource activities eligible to be funded under section 20.

Report on Safety Conditions in Mass Transit

The Committee bill would require the Department of Transportation to submit a report to Congress on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by DOT in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

The Committee directs the Department of Transportation to work closely with the Congress in designing the parameters of this safety study. Some critical design elements of the study (e.g. the time frame to be covered by the study) have been left to future discussions between DOT and by the Committee staff.

The Committee notes that federal safety standards have not been issued for transit programs, leaving this area to State and local control. The Committee believes it is important to assess how effective State and local action has been in protecting transit riders as well as the substantial federal investment in transit facilities and equipment. The DOT study must, therefore, be designed to produce the type of data and information that will assist the Committee in evaluating the effectiveness of current safety measures and programs.

Project Management Oversight

UMTA currently oversees over $33 billion in active grants nationwide. The agency is responsible for ensuring that grantees comply with the UMT Act and uniform grant regulations that apply across the government. These include federal purchasing and contracting standards for recipients of federal funds. In lieu of more direct oversight to ensure compliance, UMTA relies on grantee certification that they comply with all applicable federal requirements. To supplement self-certification and oversee grantees' compliance, UMTA regional offices have a number of monitoring tools including grantee financial and progress reports, site visits, annual audits, and triennial reviews. The 1987 reauthorization act required UMTA to implement the Project Management Oversight (PMO) program. This provision permits UMTA to use up to ½ percent of the funds made available each year to carry out sections 3, 9, 18, Interstate Transfer Projects and the National Capital Transportation Act (authorizing legislation for D.C. Metro) for project management oversight of major capital projects. UMTA currently relies heavily on the use of 12 independent contractors to perform project management oversight of 33 major capital projects. As a condition of receiving federal funding for major capital projects, grantees are required to submit project management plans (PMP) during the grant review process. In addition, each system is required to submit quarterly narrative progress and financial status reports about relevant grant activities once funding is provided.

The Government Accounting Office is currently reviewing UMTA's grants oversight practices. This investigation was prompted by procurement problems at one system studied by GAO and by reports that discretionary grants lacked little if any documentation. Preliminary GAO comments indicate a need for additional grants management oversight.

The Committee bill would increase the percentage of funds reserved for FTA's project management oversight program. The currently ½ percent takedown of funds available under capital grants programs would be increased to ¾ percent. The Committee bill would remove a technical restriction currently limiting the use of "takedown" funds to projects funded under the particular section from which the funds were set aside. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

The Committee intends that the additional resources provided for project management oversight, as well as the additional resources authorized for administrative expenses, will be used by FTA to improve its oversight activities.

Planning and Research

In General.—Transit research has long been a key element of federal support for public transportation. Section 6—Research and Demonstration was one of the first programs established in the Urban Mass Transportation Act of 1964.

Over the past decade, however, federal support for research has been sharply reduced. According to the Transportation Research Board, in the 1970's, UMTA's annual research budget averaged $60 million, or nearly 1.5% of the industry's gross revenues per year. By fiscal year 1986, transit research obligations were approximately $22 million, barely more than one-fifth of 1 percent of estimated industry revenues of $10 billion. The private sector, by contrast, generally devotes 2.8 percent of its revenues to research.

While transit research spending has decreased, the Highway program has increased its research spending. The enactment of the Clean Air Act Amendments, the Americans with Disabilities Act and a reemphasis on safety issues, further increases the demand for mass transit research and planning.

The Committee has attempted to address this urgent need in several ways. The Committee bill would add a new planning and research program—section 26—to the Act. The Committee bill would provide sufficient funding and flexibility to ensure that research results are translated into practice when applicable. The bill folds funding for section 6—research and demonstration, section 8—planning (state planning funds only), section 10—training grants, section 11(a)—university research, and section 20—human resource programs into state and national planning and research programs. Combining program funding would facilitate the provision of training and technical assistance to ensure widespread implementation of workable products and services.

Funding. The bill would set aside 3% of the total mass appropriations for research and *planning*. This action would ensure funding stability and predictability for long-term research and planning projects. Half of the 3% set aside of appropriated funds would be used to establish the state and national planning and research programs. This level of funding for the state and national programs would parallel the highway research program which is also 1.5% of that program's total appropriations. As described above, the other half of the 3% set aside would be used to fund local planning organizations and the Rural Transportation Assistance Program.

State Program. The state program would consist of a new transit cooperative research program designed to address research priorities as determined by public transportation operators, suppliers and others involved in the mass transportation industry. The program is based upon the recommendations of the 1987 report by the Transportation Research Board entitled "Research for Public Transit—New Directions" and is similar to the successful Strategic Highway Research Program (SHRP) established under the Federal Aid Highway Act of 1987. The Transit Cooperative Research Program would focus on identifying and evaluating practical solutions to everyday problems experienced in the operating environment. A governing board would be established through the Transportation Development Corporation. A majority of the board would represent public operators of transportation service. Program management, project implementation and technical support to the board would be provided by the National Academy of Sciences under a cooperative agreement with the Secretary.

The remainder of the state program allocation would be made available to the States on the basis of population for research, training, planning, human resource support and demonstration projects. No state would receive less than one-half of one percent of these allocations. Although the local Metropolitan Planning Organizations would receive their funds as a separate percentage of the total set aside for research and planning, states could use state program funds to supplement the metropolitan planning organizations as well as the transit cooperative research program.

National Program. The national planning and research program would authorize the Secretary to make grants and contracts in accordance with already established research, training and planning sections of the Act.

The Committee bill would require the Secretary to make available a minimum of $2,000,000 per year for the authorization period to provide transit-related technical assistance, demonstration programs, research development, public education and other activities to assist transit providers with the implementation of the Americans with Disabilities Act.

The Committee bill would also require the Secretary, to the extent practicable, to contract with a national non-profit organization with demonstrated capacity to carry out this activity.

The Committee is aware that a program similar in nature to the one contemplated by the Committee bill received funding in fiscal years 1988–1990. The program, Project ACTION (Accessible Community Transportation in Our Nation), was administered by the National Easter Seal Society through a cooperative agreement with UMTA. Project ACTION was designed to improve relations between the transit and the disability communities and to facilitate the development of cooperative tools and techniques for improved access to mass transportation for persons with disabilities.

The Committee believes that the experiences of Project ACTION over the last three years and its demonstrated capacity to develop tools and techniques which help to improve transportation services for persons with disabilities should serve as a model to the Secretary in establishing the program required by the Committee bill.

The National Program would allow the Secretary expedited processing of non-renewable grants less than $100,000 provided these grants are in compliance with labor provisions of the Act.

The Committee is aware of a recent General Accounting Office report (GAO, December, 1989) which noted the need for a more systematic and stable technical assistance program to encourage low-cost traffic management techniques. The Committee believes that the National Program should place a high priority on providing comprehensive research and technical assistance to encourage transportation demand management. To the extent practicable, these efforts should be coordinated with related efforts pursuant to section 108 of the Clean Air Act Amendments of 1990.

The Committee bill would also clarify the purposes of the national research and planning program by establishing a technology development program to focus on incremental improvements to existing technology as well as effective cost sharing programs.

Technical accounting provisions

The Committee bill would make a technical amendment to correct certain administrative difficulties resulting from current accounting and Department of Treasury practices. Older, unobligated appropriations would be merged into the current appropriation for the particular activity. This provision would not affect in any way the availability of funds involved.

GAO REPORT ON CHARTER SERVICE REGULATIONS

The Committee bill would require the General Accounting Office to analyze the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs.

The Committee has mandated this study in response to persistent criticisms of the existing regulations. Prior to 1987, public transit properties were permitted to operate limited charter bus services. These services had to be incidental to the provision of regular mass transit services and were only to be operated within the transit system's service area. As part of the Reagan Administration's "privatization" policies, UMTA issued regulations in 1987 and 1988 establishing a general prohibition on the use of UMTA funded equipment and facilities in charter service operations. Although the regulations establish a number of exceptions to the general prohibition (e.g. permitting incidental charter service where no private charter operator is determined to be "willing or able" to provide the service), transit operators claim that the regulations represent a marked departure from prior practice and significantly impede the ability of communities to meet local transportation needs.

Transit operators specifically contend that the regulations: (1) reduce the quality and quantity of transportation services available to the public; (2) prevent productive and efficient use of federally subsidized equipment and facilities; (3) make the cost of service prohibitively expensive in areas where private charters are located at a great distance from communities requiring service; (4) force community groups to pay noncompetitive rates for service; (5) diminish the ability of public operators to generate community support for transit; (6) impede the ability of local governments to carry out economic development activities; and (7) allow private operators to financially benefit from the use of federally-subsidized vehicles under agreements with public operators where the public operators provide service and the private carrier acts as a broker.

The Committee is concerned that the current regulations may prevent communities from meeting local transportation needs in the most cost efficient and effective manner possible. The Committee believes that a GAO study will provide Congress with objective information on the impact of the charter service regulations and help Congress determine whether the regulations are in need of modification. The GAO would be specifically instructed to examine the impact of the charter service regulations in at least three communities. The Committee recommends that the Comptroller General include a community in the state of Michigan as one of the communities to be analyzed.

GAO STUDY ON PUBLIC TRANSIT NEEDS

The Committee bill would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit needs are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns.

The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

The Committee strongly believes that the existing sources of information on transit need are inadequate. It is difficult to determine the level of investment required to maintain, modernize and expand our transit infrastructure. A biennial GAO report would provide Congress with an independent analysis of transit need and provide an objective benchmark for determining whether the nation is adequately investing in its transit infrastructure.

TECHNICAL AMENDMENT TO SECTION 9B

The Committee bill would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill. Section 9B, as currently written, makes reference to authorization provisions enacted by the Surface Transportation and Uniform Relocation Assistance Act of 1987. Those provisions have been amended by section 35 of this Act.

Use of Census Data.—Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. The Committee bill would require transit programs, where practicable, to utilize more recently available population statistics.

The Committee bill would require that interim population estimates provided by the Secretary of Commerce be used to distribute funds under Section 18 and Section 9 for small urbanized areas. Funds are allocated under these two programs to the state on the basis of the rural or urbanized population in that state. The Secretary of Commerce provides interim estimates of such population distributions on a biannual basis. The formulas for Section 18 and Section 9 for small urbanized areas would be updated every four years so that communities could retain more predictability in planning the use of their formula allocations.

The Committee bill would not require interim formula updates for Section 9 for large urbanized areas because the appropriate data can not be made available. Section 9 funds for areas of population over 250,000 are allocated directly to the urbanized areas. Department of Commerce interim population estimates are available for metropolitan statistical areas, which are defined by entire counties. Urbanized areas are defined on a "block by block" basis and do not necessarily conform to any governmental boundary or jurisdiction. The Commerce Department is, therefore, unable to make interim population estimates based on local governmental data for urbanized areas.

The Committee bill would also require the Secretary to use data from the 1990 census, to the extent practicable, in determining the allocation of funds under Section 9, Section 16(b)(2) and Section 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

The Secretary of Commerce will make a determination on July 15, 1991 whether or not to make statistical adjustments in the Census data to reflect undercounts and overcounts. The Bureau of the Census projects that population data will be available prior to the beginning of fiscal year 1992, regardless of whether or not statistical adjustments are calculated.

Buy America

The Committee chose not to amend section 165 of the Surface Transportation Assistance Act of 1982 to allow the President to waive the Buy America provisions when another country also agreed to relax certain of its restrictive provisions.

The waiver authority was included in the proposal submitted by the Administration. The Committee believes that the Administration already possesses the necessary waiver authority pursuant to the United States-Canada Free Trade Agreement Implementation Act of 1988, as well as the Omnibus Trade and Competitiveness Act of 1988.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This title would be referred to as the "Federal Transit Act of 1991".

Sec. 2. The Agency Name. The name of the Urban Mass Transportation Administration would be changed to "Federal Transit Administration".

Sec. 3. Amendment to short title of the 1964 Act. The name of the underlying law would be changed from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act".

Sec. 4. Amendment to Findings and Purposes. This section would amend Section 2(a) of the Federal Transit Act (FT Act) to add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with the financial resources to help implement the national goals related to improve air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Sec. 5. Commute-to-Work Benefits. This section would assert Congressional findings regarding commute-to-work benefits. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 per month. If benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, lessen congestion and reduce air pollution. This section would affirm the need to provide equal commute-to-work benefits to transit.

Sec. 6. Capital Grant or Loan Program. The section would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program."

Sec. 7. Capital Grants—technical amendment to provide for early systems work contracts and full funding grant contracts. The bill amends Section 3 of the FT Act to authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficiency project management.

A full funding contract would be designed to (1) establish the terms and conditions of federal financial participation in a project under this section, (2) establish the maximum amount of federal financial obligation for the project, and (3) facilitate timely and efficient management of the project in accordance with federal law. Budget authority obligated by a full funding contract would be limited by the amount made available in the law for obligation. A contract could either obligate the full amount reported for the project, it could obligate a portion of that amount with a commitment, contingent only upon the future availability of budget authority provided for the relevant program, to obligate additional amounts from budget authority that is made available in law for future years. Budget authority obligated in the future pursuant to a contingent commitment would be limited to amounts specified in law in advance for eligible projects. The total of amounts stipulated in a contract for a fixed guideway project would have to be sufficient to complete not less than an operable segment. Any interest and other financing costs of efficiently carrying out a project or a portion of a project pursuant to a full funding contract would be considered an eligible project cost under the contract, provided that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing.

An early systems work agreement would permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs. The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract will be entered into for the project and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost. An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement, which could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet relevant federal requirements. Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

Limitation on letters of intent and contingent commitments. The bill would limit the total value of outstanding letters of intent and

contingent commitments included in full funding contracts to (1) the total amount authorized, either as contract authority or as an authorization of appropriations, to carry out the relevant program under Section 3 or (2) 50 percent of the uncommitted cash balance remaining in the Transit Account of the Highway Trust Fund (which includes the amounts received from taxes and interest earned in excess of amounts that have been previously obligated), whichever is greater. Such commitments could be made for new starts, rail modernization or bus projects. The commitment cap related to the Trust Fund balance would not be split by program category.

Sec. 8. Section 3 Program—Allocations. This section would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Sec. 9. Section 3 Program—Rail Modernization Formula. This section would establish a three-tier distribution system for the allocation of rail modernization funds. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems. The formula would work as follows:

Tier One—Hold Harmless for Historic Rail Systems. In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems would include those systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986-1990; and (2) received in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.

2 percent of the total amount would also be set aside for Pittsburgh. The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as are necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.

Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems. The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula. All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

Ineligible Systems—Secretary Discretion. The Secretary would have the discretion to permit ineligible fixed guideway systems—those that have not been in revenue service for at least ten years—to participate in the formula program where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

Apportionment. In a given fiscal year, the Secretary would be required to apportion rail modernization funds—based on both authorized and appropriations levels—within specified time periods. The Secretary would also be required to publish such apportionments for each program participant within the specified time periods.

Sec. 10. Section 3 Program—Local Share. This section would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

Sec. 11. Section 3—Grandfathered Jurisdictions. This section would clarify that all existing of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Sec. 12. Capital Grants—Innovative Techniques and Practices. The eligible activities under the section 3 discretionary program would be expanded to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Sec. 13. Capital Grants—Elderly and Persons with Disabilities. This section would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

While current law provides for the rights of elderly and disabled persons to use mass transit, the recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and as a consequence, more costly. This section would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Sec. 14. Advance Construction. Technical amendment related to interest cost. The bill would amend Section 3(1) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 15. Criteria for New Starts. This section would modify existing criteria for new starts. The project evaluation process would be revised to ensure that the project's social, environmental and economic impacts are also given appropriate consideration. Cost-effectiveness measures used in rating projects for selection would have to be adjusted for inflation and to reflect regional differences in land, construction and operating costs. To meet the criterion for local financial capacity, a designated recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns: have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Section 3(i) new starts criteria and the limitation of project development to one corridor at a time would not apply to a project if (a) assistance sought under Section 3 is less than $25 million or 30% of the total costs of the project or an interrelated programs of projects or (b) a project serves as a transportation control measure necessary to carry out an approved State Implementation Plan in extreme or severe non-attainment areas. The Secretary would be required to expedite the UMTA project review process for projects that are transportation control measures necessary to carry out an approved State Implementation Plan in serious, moderate or marginal non-attainment areas.

Sec. 16. Advance Construction. Technical amendment related to interest cost. The bill would amend Section 3(1) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 17. Federal Share for ADA and Clean Air Act Compliance. This section would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Sec. 18. Section 9 Formula Grant Program-Discretionary Transfer of Apportionment. This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing

transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 19. Comprehensive Transportation Strategies. This section amends Section 8 of the FT Act of reform the current transportation planning process to give more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. It is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

Subsection (a) requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations.

In general. The subsection declares it to be in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary is required to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

Metropolitan Planning Organizations. The subsection requires that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation shall remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

When an MPO is designated or reorganized, each Governor is required to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor shall certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas. Certain metropolitan areas will be designated to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary is required to publish and annually update a list of metropolitan areas that meet those criteria. The Secretary may also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries. The boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in noncompliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO determine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment area, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy. The bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have

to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements of federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy. A metropolitan transportation strategy would be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major raodways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) project capital investment and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) indicate any proposed transportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Subsection (b) of the bill establishes requirements for transportation improvement programs.

Development of programs. The MPO, in cooperation with the state and relevant transit operators, would be required to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

Periodic review and revision. The bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

Notice and Comment. Prior to approving a transportation improvement program, an MPO would be required to provide citizens, affected public agencies representatives of transportation agency employees, private providers of transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

Priority Projects. The program would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

State programs. The Governor shall, for areas for which no MPO has been designated, develop and submit to the Secretary a transportation improvement program (TIP) covering a period of not less than 3 years. The State TIP would have to be in a form acceptable to the Secretary and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance programs of the Federal-Aid Highway Act of 1991.

Subsection (c) gives MPOs within transportation management areas the authority to approve funding of projects that expand the capacity of the transportation system.

Approval of projects. For projects within a transportation management area, the MPO would submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 or sections 3 and 9 of the Federal Transit Act. When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

Funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act could not be used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO.

The prohibition in the previous sentence would not apply to projects or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture. The bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If they are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the

program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an application is pending under Section 3 of the Federal Transit Act.

Transfer of funds. Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Subsection (d) authorizes the Secretary, as under existing law, to contract for and make grants to states and local public bodies and their agencies for planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

Subsection (e), as does existing law, requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Subsection (f), would provide for the allocation of planning funds to MPOs. State planning funds would be provided as part of the new Section 26 State Program.

Basic Formula. 80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the amount apportioned under this paragraph, however.

Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

Supplemental Formula for Transportation Management Areas. The remaining 20 percent of the funds made to MPOs would be allocated to supplement funds for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

Hold Harmless. To ensure that each MPO would receive no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

Matching Share. The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

Sec. 20. Section 9 program—Allocations. This section would make a technical correction to the percentage of funds set-aside for small urbanized areas and large urbanized areas. Under current law, the section 18 and section 9 programs are funded as percentage set-asides from one amount. The bill provides for a separate set-aside for rural transit programs. This section simply reflects this change by proportionally adjusting the section 9 set-asides for large urbanized areas and small urbanized areas.

Sec. 21. Section 9 Formula Grant Program-Discretionary Transfer of Apportionment. This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 22. Section 9 Program—Elimination of Incentive Tier. This section would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. The "incentive tier" provisions—introduced in the Surface Transportation Assistance Act of 1982—now allocate a small portion of formula funds by factors purporting to weigh and reward the operating efficiency of bus and rail systems. The Administration recommended eliminating the incentive tier for the following reasons: (1) the technique used to collect the necessary data—particularly passenger miles—are difficult to verify and apply consistently among the nation's transit operators; (2) there is no evidence that application of the incentive factors has induced any change in behavior among the transit operators; and (3) the overall effect of eliminating the incentive tier would be insignificant.

Sec. 23. Section 9 Program—Energy Efficiency. This section would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, a rail system that makes energy savings by using less equipment (e.g. by running shorter trains)—while still providing the same frequency of revenue service to the same number of riders—would lose funds under the Section 9 rail tier formula. The section would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Sec. 24. Section 9 Program—Applicability of Safety Program. This section would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Sec. 25. Section 9 Program—Certifications. This section would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

Subsection (a) would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Subsection (b) would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Sec. 26. Section 9 Program—Program of Projects. This section would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Sec. 27. Section 9 Program—Continued Assistance for Commuter Rail in Southern Florida. This section would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

Sec. 28. Section 11—University Transportation Centers. Section 28(1) would revise the responsibilities of university transportation research to include safety issues. Section 28(2) would delete the current National Advisory Council provision and replace it with a requirement that the results of studies conducted by the Centers be coordinated and disseminated by the Secretary.

Section 28(3) would amend section 11(b)(8) to permit up to 1% of the funds made available under this program by any agency of

the Department to be available for the administrative expenses the Department incurs in administering the program. The Secretary intends to delegate the responsibility to administer the program to the Administrator of the Research and Special Programs Administration.

Section 28(4) would add paragraphs (11) and (12) to the end of section 11(b) of the Act. Paragraph (11) allows the Secretary to make available to the University Centers other funds appropriated for transportation research.

In addition, Paragraph (12) would establish three additional National University Centers for transportation management, research and development to accelerate the involvement and participation of minorities and women in transportation related professions, especially in the science, technology and engineering disciplines. These new Centers would meet all of the guidelines and criteria applicable to the other University Centers.

Sec. 29. Rulemaking. This section would require the Secretary to undertake formal rulemaking when proposing or implementing rules governing activities under the Urban Mass Transportation Act. This is intended to prevent the Secretary from implementing policy revisions through routine guidance circulars rather than through formal rules.

Sec. 30. Section 12—Transfer of Facilities and Equipment. This section would amend the general provisions of Section 12 to allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

Sec. 31. Special Procurement. The bill will amend section 12 of the FT Act by adding a new subsection that authorizes two new refinements to law affecting FTA procurement procedures.

Turnkey System Procurements. This paragraph would promote the adoption of new transit technologies, such as automatically guided rail systems, and make possible lower cost construction of new mass transportation systems through the use of "turnkey" procurement. "Turnkey" refers to a vendor-specific project under which a manufacturer contracts to (1) build a total system that meets specific performance criteria, (2) operate it for a period of time, and then (3) transfer operation to the transit system after reliable performance is assured. The paragraph would authorize the Secretary to allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under the FT Act could be made available when the recipient has complied with relevant Federal requirements. The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, and to assist in the development of those regulations, the Secretary is authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year rolling stock procurement. This paragraph would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as busses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract. The Committee considered favorably a proposal to amend existing statute with language stating that an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with nonfederal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures.

The paragraph would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

Sec. 32. Section 16—Elderly and Persons with Disabilities. This section would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the state to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services.

The section would allow the Governor of each state to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The section would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Sec. 33. Section 18—Transfer of Facilities and Equipment. This section would add a provision to allow States the flexibility to transfer facilities and equipment between the Section 18 and Section 16(b) programs. Current law does not allow equipment transfers from one program to the other. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

Sec. 34. Section 20—Human Resources Program Support. This section would amend current Section 20, which authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs as they apply to public transportation activities. This section would redesignate the current provision as subsection (a) and add a new subsection (b).

This new subsection would authorize the Secretary to retain any funds returned in connection with these human resource activities in a fund whereby these retained funds could in turn be made available for any human resource activities eligible to be funded under section 20.

Sec. 35. Authorizations.—This section would provide authorization levels for the various programs in the bill. Under current law, section 9 and 18 formula programs are funded primarily from general revenue. The section 3 new starts, rail modernization, and bus discretionary programs, section 16(b)(2) elderly and handicapped transit and Section 8 planning—are funded from the mass transit account of the highway trust fund. Historically, programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. This proposal would restructure funding sources to provide greater equity between formula and discretionary programs. All formula and discretionary programs would receive a similar percentage of funds from both the trust fund and general revenues.

Funding for the various programs would, in most cases, be provided as a percentage of total funds available for formula and discretionary programs and the National Capital Transportation Act.

3.0% of total FTA funds would be authorized for planning, programming and research. Those funds would be distributed as follows:

45% would be available for MPOs under section 8(f);

5% would be available for the Rural Transit Assistance Program under section 18(h);

20% would be available for the state research and planning program under section 26(a); and

30% would be available for the national planning and research program under section 26(b).

1.04% of total FTA funds would be authorized for administrative expenses under section 12(a)—providing the Administration's requested amount;

1.5% of total FTA funds would be authorized for elderly and handicapped transportation under section 16(b);

$5,000,000 would be authorized for each of fiscal years 1992 through 1996 for University Transportation Centers under section 11(b);

$160,000,000 would be authorized for fiscal year 1992 and $164,843,000 for fiscal year 1993

for completion of the Interstate Transfer program transit projects;

6% of the remaining formula funds would be authorized for rural transportation under section 18, which would essentially double the funding for these activities;

the balance of formula funds would be available for section 9 formula grants.

Sec. 36. Report on Safety Conditions in Mass Transit. This section would require the Secretary to submit a report to Congress within 180 days of enactment on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Sec. 37. Section 23—Project Management Oversight. This section would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown from all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transporation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Sec. 38. Section 26—Transportation Planning and Research. This section would clarify the research functions of the agency by adding a new Section 26 to the Act. Subsection (a) would provide for a state research and planning program.

50 percent of the funds authorized under subsection 35(c)(3) of this Act would be available under subsection 26(a)(1) of the FT Act for a transit cooperative research program to be administered by an independent governing board established by the Secretary. The majority of the board members would represent transit operating agencies. The mass transit projects the board approves would be carried out by means of grants or cooperative agreements from the Secretary of the National Academy of Sciences. The transit cooperative research program is intended to be an applied research program that focuses on identifying and evaluating solutions to everyday problems of transit operators.

The other 50 percent of funds would be available to the States on the basis of population for grants or contracts consistent with the purposes of sections 6, 8, 10, 11, or 20 of the Act. No state would receive less than one-half of one percent of the amount apportioned in this section. States could also use a portion of their funds for activities in conjunction with the transit cooperative research program as well with local metropolitan planning organizations.

Subsection (b) would provide for a national research program to be administered by the Secretary. The secretary would be authorized to use the funds for section 35(c)(4) for grants or contracts in accordance with sections 6, 8, 10, 11, or 20 of the Act.

Subsection (b)(2) would require the Secretary to set aside a minimum of $2 million in funds for transit related technical assistance, demonstration programs, research development, technological innovations and public education for the purpose of assisting with implementation of the Americans with Disabilities Act. To the extent practicable, the Secretary would contract with a national non-profit organization with demonstrated capacity to carry out this activity.

Subsection (b)(3) would authorize the Secretary to use up to 25% of the section 26(b)(1) funding for special initiatives. In connection with these initiatives, the Secretary may provide expedited processing governing compliance with the requirements of this Act for nonrenewable grants that do not exceed $100,000.

Subsection (b)(4) would authorize the Secretary to undertake a program of transit technology development in coordination with affected entities. The Secretary would establish an Industry Technical Panel composed of representatives of transportation operators and suppliers. Representatives of the suppliers could compromise a majority. The panel would assist the Secretary in identifying promising areas for technology development and in developing guidelines for project development. The Secretary would also develop guidelines on cost sharing principles for technology development projects.

Subsection (b)(5) would permit the Secretary to use funds under this subsection to supplement funds under the transit cooperative research program, subsection (a)(1) of this Act, in the state program.

Subsection (b)(6) would permit the Secretary to impose an appropriate local share for any grant or contract that gives a clear and direct financial benefit to an entity.

Sec. 39. Technical Accounting Provisions. This section would correct administrative difficulties resulting from current accounting practices. Funds appropriated prior to October 1, 1983, that remain available for expenditure after October 1, 1991, could be transferred to and administered under the most recent appropriation heading for the relevant section.

Sec. 40. GAO Report on Impact of Charter Service Regulations. This section would require the General Accounting Office to submit a report to Congress evaluating the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs. The report would specifically analyze the impact of the regulations on the ability of communities to meet the transportation needs of government, civic and charitable organizations and carry out economic development activities. The report would also analyze the extent to which (1) public transit operators and private carriers have entered into charter service agreements; and (2) private carriers profit from the provision of charter service by public operators. The GAO would be instructed to examine the impact of the charter service regulations in at least three communities. The final report would be due not later than 12 months following enactment of the Act.

Sec. 41. GAO Study on Public Transit Needs. This section would require the General Accounting Office, on a biennial basis, to submit a Report to Congress that evaluates the extent to which the nation's transit are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Sec. 42. Use of Population Estimates. This section would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

Sec. 43. Section 9B—Technical Amendment. This section would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill.

Sec. 44. Use of Census Data. This section would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, JUNE 10, 1991

1. Bill number: S. 1194.

2. Bill title: Federal Transit Act of 1991.

3. Bill status: As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs, June 6, 1991.

4. Bill purpose: S. 1194 would provide contract authority and authorize appropriations for various programs of the Urban Mass Transit Administration (UMTA). For urban formula grants, rural transit grants, interstate transfer transit grants and several other UMTA programs, the bill would provide contract authority totalling $6.6 billion and authorize appropriations of $7.0 billion over the 1992–1996 period. For capital grants authorized by Section 3 of the Urban Mass Transportation Act of 1964 (known as the section 3 program), the bill would provide contract authority of $3.4 billion and authorize appropriations of $4.0 billion over the same period.

The bill would also make a number of changes to the funding structure of federal mass transportation grant programs. Under current law, only the section 3 program and the section 9B formula capital grants program are funded with contact authority while all other UMTA programs are subject to appropriations. S. 1194 would establish a dual funding system where by all UMTA programs would receive both contract authority and appropriations. Further, funding for all these programs would come from both the transit account of the Highway Trust Fund and the general fund of the Treasury.

UMTA would receive additional flexibility in managing capital projects under S. 1194. The bill would allow the agency to enter into full funding contracts under the section 3 program that could include contingent commitments to obligate future years' budget authority for specific projects. UMTA could also enter into early systems work agree-

ments that would obligate available budget authority to pay for preliminary project implementation costs in advance of final project approval.

Also included in this bill are provisions that would:

Change the name of the Urban Mass Transportation Administration to the Federal Transit Administration;

Expand the activities eligible for funding under UMTA grant programs; and

Expand the existing transportation planning process established by the 1964 act.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
BUDGET AUTHORITY					
Formula Grants and Other:					
UMTA programs	1,071	1,220	1,300	1,450	1,565
Section 3 capital grants	535	580	680	750	835
Total budget authority	1,606	1,800	1,980	2,200	2,400
AUTHORIZATIONS					
Formula grants and other:					
UMTA programs	1,440	1,387	1,351	1,382	1,460
Section 3 capital grants	775	780	799	829	850
Total authorization level	2,215	2,167	2,150	2,210	2,310
Estimated outlays	710	1,524	2,381	3,020	3,675
Total:					
Budget authority/ authorizations	3,821	3,967	4,130	4,410	4,710
Estimated outlays	710	1,524	2,381	3,020	3,675

Total outlays for programs authorized by this bill, including outlays from previous years' appropriations, would grow from $3.6 billion in 1992 to $4.2 billion in 1996.

The costs of this bill fall within budget function 400.

Basis of Estimate: The budget authority equals the contract authority provided in this bill. To estimate outlays from the contract authority, we assume that obligation limitations customarily established in appropriations acts would equal the budget authority. Because these outlays are subject to such limitations and to liquidating appropriations, they are considered discretionary and so are included under authorizations in the above table.

For the spending subject to appropriations, CBO assumed that the full amounts authorized for each year would be appropriated prior to the start of the fiscal year. Outlay estimates are based on historical spending rates.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. While S. 1194 would provide contract authority for mass transportation programs, the outlays for these programs would be considered discretionary, as explained above. Therefore, CBO estimates that enactment of S. 1194 would not affect direct spending or receipts, and pay-as-you-go procedures would not apply to this bill.

7. Estimated cost to State and local governments: Most of the funding provided by this bill is in the form of grants to state and local governments. Several provisions would affect the allocation of funds among the states and alter cost-sharing arrangements for some types of projects. Specifically, the bill would establish a higher federal share for projects that involve the acquisition of equipment or construction of facilities required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. In addition, S. 1194 would expand the activities eligible for funding under UMTA grant programs.

Federal requirements for transportation planning would be expanded upon enactment of this legislation, but funds provided for this purpose would also increase.

8. Estimate comparison: None

9. Previous CBO estimate: None

10. Estimate prepared by: Marjorie Miller.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).•

RECOGNITION OF FARMERS HOME ADMINISTRATION, LONDON, KY

• Mr. FORD. Mr. President, I rise today to recognize the outstanding accomplishments of the Farmers Home Administration District Office in London, KY. The office staff will be in Washington today to receive the Superior Service Award from the U.S. Department of Agriculture for outstanding contributions to rural development in southeastern Kentucky. The members of the group include Kenneth R. Arterburn, district director; E. Gene Bundy, district loan specialist; Mary M. Woods, district loan technician; and Athalene Anders, district office clerk.

As one of the administrators of the largest and most diversified loan and grant portfolios in the State during the past year, the FmHA District Office in London has provided waste disposal system loans and grants, rural rental housing loans, community facilities loans, and two Appalachian Regional Commission grants. The London district office has been instrumental in providing community facility loans for health care facilities, a community building, a fire department, a housing preservation grant, and numerous recreation projects.

Mr. President, I find one of the most distinguishing characteristics of the district to be an outstanding collection record. In considering the high volume of loans and grants the district administers, I am most impressed by such an excellent record. The impressive record is undoubtedly attributable to the hard work and dedication by the members of the district office staff.

The members of the London office have been with Farmers Home Administration for at least 20 years, each dedicating a long and distinguished career of service. The residents of the London area are certainly lucky to have such individuals implementing and admirably working to strengthen the family farm, rural incomes, and rural communities.

As the London District Office is recognized today for its superior service, I commend the outstanding performance of the staff and encourage the continuance of their dedication to the rural communities of southeastern Kentucky.•

FOOD SALES TO THE SOVIET UNION

• Mr. EXON. Mr. President, I was pleased that the President has taken the advice of the United States Senate and extended agricultural export credit guarantees to the Soviet Union. The President acted in a measured fashion which will help encourage continued reform in the Soviet Union and protect American taxpayers from default. It is clear that the Senate resolution expressing support for the credit guarantees played a role in the President's decision.

It is a wise decision. The American farmer will welcome this action and it will give the American agricultural exports a shot in the arm. It is wrong to think of the President's action as extending aid. It is not. It is facilitating trade. This move serves American interests very well.

For quite some time, I have been encouraging the Bush administration to explore a long-term food for oil barter arrangement, where American food and oil production technology can be traded for future Soviet oil production. This spring I explained my proposal to the Soviet Minister of Oil and Gas and the Soviet Minister of Agriculture and received very positive response to the concept and the Senate passed resolution on agricultural export credit guarantees endorsed the use of barter, countertrade and other nontraditional means of finance to expand trade with the Soviet Union.

I was delighted to see an article in the June 12 Journal of Commerce written by Prof. Lawrence M. Lesser, which endorses the very type of arrangement I have been suggesting.

Mr. President, I encourage my colleagues to read this well-written article and ask that the text of Professor Lesser's article be printed in the RECORD.

The article follows:

TRADING U.S. AID FOR SOVIET OIL

(By Lawrence M. Lesser)

President Bush appears poised to grant Soviet President Mikhail Gorbachev's request for $1.5 billion in U.S. agricultural credit guarantees to meet a food crisis in the Soviet Union. If Mr. Bush does so, it will be over the objections of some of his own economic advisers and the Central Intelligence Agency.

Skeptics question whether it is in the U.S. national interest to help the Soviets at a time when their economy has gone into a free-fall and they have done little to help themselves. Complicating the decision-making process is a U.S. law that requires foreign customers for American agricultural commodities to be able to repay their debts to qualify for U.S. export credit guarantees. The United States granted Moscow $1 billion in credit guarantees last December.

Extension of American credit guarantees to the Soviet Union clearly would benefit American farmers, improve the U.S. balance of trade and strengthen Mr. Gorbachev's standing at home. It also might benefit Soviet consumers.

But it is also important to consider what this aid will mean for American taxpayers and what steps can be taken to protect the U.S. treasury. The Soviet Union's inability to pay its creditors is a serious concern, given Moscow's current massive indebtedness to Western governments and corporations.

Recently, the Central Intelligence Agency warned Congress that "the Soviet economy is disintegrating and could be on the way to a disaster of historic proportions." Major international banks have sharply downgraded the Soviet Union's credit rating and refused to provide new loans.

The General Accounting Office recently estimated that total defaults under the agricultural credit guarantee program, including $2 billion owed by Iraq, will cost the United States as much as $6.7 billion. And the Congressional watchdog agency warns that losses may go higher if additional credits are extended to high-risk borrowers, such as the Soviets.

If Mr. Bush approves Mr. Gorbachev's entire request without attaching conditions to protect the U.S. treasury, the level of U.S. credit guarantees outstanding to the Soviet Union alone would represent almost half the total for all countries this year under the export credit guarantee program.

One prudent step Mr. Bush should take is to wait until next month before formally committing the United States. He could then see if the Soviets meet the first interest payment due on the $1 billion in credits Washington extended last December. Another is to release the new credits in phases, a step the administration is considering.

The Soviet Union grows more wheat than any other country in the world. But in spite of an abundant harvest in 1990, less than half of the 235 million metric tons produced actually reached store shelves. Production of many other food items, such as meat, sugar, fruits and vegetables, was down.

In recent testimony before the congressional Joint Economic Committee, George Kolt, director of the CIA's Office of Soviet Analysis, said Soviet consumers faced "greater shortages and higher prices than at any time in the past four decades. Breakdowns in distribution compounded the shortage problem and magnified regional and social inequalities in living standards."

America is the world's largest exporter of agricultural commodities. And the United States has ample supplies to help feed the Soviet people, as well as the technological expertise to overhaul the infrastructure on which Soviet agriculture depends. Americans can teach Soviets how to decentralize, how to privatize and how to install other incentives, such as market pricing, that will make it possible for them to distribute food efficiently.

In addition to wheat, the Soviet Union also is the largest oil producer in the world, surpassing even Saudia Arabia. As a nation with some of the largest proven reserves, including three of the world's largest oil fields, the Soviet Union can offer American firms enormous opportunities for oil and gas exploration.

Like the agriculture sector, the Soviets also face daunting problems with their oil and gas infrastructure. As estimated 9% of all oil production is spilled every year, while ten percent of all natural gas production leaks from defective pipelines.

Given Moscow's lack of cash and need for more efficient ways to distribute its surpluses, there is a unique opportunity here for an accord in which American food and technical assistance could be bartered for Soviet oil. The price of each could be negotiated on the basis of market factors. By sharing U.S. agricultural and energy technology, American firms could help to overhaul outmoded Soviet production and distribution facilities and systems in both industries.

A food-for-oil pact would ease U.S. concerns about Soviet credit-worthiness since Soviet oil production could serve as collateral for new credits. And it would enable the United States to diversify its sources of petroleum, a step Mr. Bush called for earlier this year as part of his National Energy Strategy.

Daily events in the Soviet Union alternately elicit feelings of hope and despair. Mr. Gorbachev's power-sharing pact with the republics, the Soviet parliament's approval of legislation to guarantee freedom of emigration, the renewed impetus toward democracy and a free market economy, and a new willingness to resolve outstanding differences with the United States on arms control, are all positive developments.

But political repression and denial of basic human rights remain of deep concern. Another wave of repression could come at any time, as it did after Mr. Bush granted the Soviets grain credits last December.

Mr. Bush, as he did during the war against Iraq, once again can demonstrate his capacity to lead by proposing a barter arrangement between the United States and the Soviet Union. A comprehensive program of this kind would benefit the economies of both countries, protect American taxpayers and advance U.S.-Soviet relations.●

THE TRANSITION OF EASTERN EUROPE TO FREE MARKET ECONOMIES

● Mr. ROTH. Mr. President, the world's attention over the past year has been focused on Eastern Europe, as formerly Communist nations such as Poland have endeavored to transition to free market economies. The United States has assisted greatly in this move, which captures our imagination and desire to see freedom around the globe, and certainly serves our national interest as well.

Poland faces a major challenge next week in its attempt to shed the burdens of its Communist days when it continues negotiations with foreign financial institutions over its debt repayments. Communist regimes in Poland borrowed $48 billion, and of this, the country now owes approximately $12 billion to commercial banks. Representatives of these institutions will meet in Frankfurt with Polish Government officials to try to reach agreement on rescheduling this private debt.

Western governments took the lead last March in easing this crushing debt burden when they agreed to provide debt relief totaling $17 billion over a period of several years. The agreement with these nations—who acted collectively as the Paris Club—provided that Poland may not offer more favorable terms to any other creditors. Hence it is critical that Western financial institutions also show flexibility and realism in dealing with the Poles.

Mr. President, the course of history depends on the ability of formerly Communist countries to convert to market economies. In Poland's case, this requires a realistic approach to the acute problem of its overwhelming public debt, and I encourage Western commercial institutions to approach the upcoming negotiations in this manner.●

INTERNATIONAL EFFORTS TO PROTECT THE KURDISH PEOPLE

● Mr. KERREY. Mr. President, in the past 72 hours we have immersed the military participants of Operation Desert Storm with an unprecedented homecoming. In Washington, DC, it was one of the largest demonstrations; in New York City they broke all previous records.

The success being celebrated is the military victory over the Iraqi army. American and allied forces drove the Iraqi occupiers out of Kuwait just as they promised to do. It was a very impressive operation and we now welcome home those who impressed us so much.

The language of our speakers describe this as a victory for liberty and freedom. However, as stunning as the military victory was, the fight for freedom has just begun. Reports of ongoing human rights abuses in Kuwait indicate that we need to sustain our concern for the freedom of the Kuwaiti people. Further, as grateful as I am for the safe homecoming of our men and women, the most impressive movement home has been the return of Kurdish refugees to northern Iraq. Mr. President, I hope and pray we do not forget them.

In this morning's Washington Post there is an editorial by Mr. Sadruddin Aga Khan, the executive delegate of the Secretary General for the United Nations interagency humanitarian program for Iraq, Kuwait, and the Iraq-Turkey and Iraq-Iran border areas. I ask that Mr. Khan's text appear at the conclusion of my statement.

Mr. Khan explains the purpose and history of the United Nations "guards contingent" formula being used in Iraq to protect the freedom of the Kurdish people. These 500 U.N. guards are in Mr. Khan's words "to be assigned wherever a U.N. humanitarian presence is needed * * * it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations somewhat rigid structures, can unblock the impasse."

These 500 guards operate according to a May 23 U.N. agreement with Iraq and the framework agreement signed in Baghdad on April 18. It is a humanitarian operation which can only be successful if the United States stands watchfully and forcefully behind it. Unfortunately, thus far the voluntary fundraising effort has fallen short of needs. The United States must lead the

world to make certain this shortage evaporates. It would be a tragic and bitter end if the freedom of these refugees was sacrificed to complacency.

Mr. Khan's vision for a new kind of response is worthy of our support. His words are more than worthy; they inspire. He says:

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vacuum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Mr. President, not only do we have the opportunity through this effort to finish the job we began, we also have the opportunity to learn how to use force to prevent wars from beginning. In the postcontainment world we must provide the means to make these kinds of operations as big a success as Desert Storm.

The editorial follows:

[From the Washington Post, June 12, 1991]

U.N. PROTECTION BORN OF NECESSITY

(By Sadruddin Aga Khan)

On May 23 the United Nations secured Iraqi agreement to the deployment of up to 500 U.N. guards, to be assigned wherever a U.N. humanitarian presence is needed. This is not a panacea for the tensions and dangers of the region—and certainly not a means to "monitor all of Iraq," as Jim Hoagland writes [op-ed, June 5]. That was never the intention. But it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations' somewhat rigid structures, can unblock the impasse.

The world's media spotlight—dazzlingly effective but lamentably brief—has focused on the grim plight of the Kurdish population in northern Iraq, which should not blind us to the needs of the victims of upheaval in other regions. Coalition forces responded first with a military efficiency that is enviable to traditional relief agencies. And since the signing of our framework agreement in Baghdad on April 18, the United Nations has had underway a humanitarian operation designed to bring succor to vulnerable groups throughout the country. The U.N. high commissioner for refugees has already taken over the Zakho transit camp. But security was hard to address within the confines of a humanitarian program.

Recourse to the Security Council was ruled out at the time. The peace-keeping option was tried to no avail. And indeed traditional U.N. peace-keeping, for all its successes, does have one pitfall: It can freeze a situation in an uneasy stalemate, with the underlying issues conveniently shelved by the parties—a "hard and bitter peace," in the words of John F. Kennedy. Just look at the 33 years of dispute over Kashmir or the 27 years of Cyprus's division.

Another approach was needed. That was why we came up with the "Guards Contingent" formula, blending the disparate humanitarian, political and security elements. A novel if still unproven experiment, the guards' basic mandate is to protect the precious human and material assets deployed in the humanitarian operation. They are neither peace-keepers nor policemen where U.N. resources are not involved. There are no guarantees. But they are there to observe, monitor and report. Any security incidents will be rapidly communicated up the chain of command. In the most direct sense, the guards may be a highly visible but symbolic presence—as indeed are peace-keeping operations themselves, where the "blue helmets" protect more by their color than by their dimension. But the guards ensure the international context. They will bear moral witness and help create confidence. As the eyes and ears of the United Nations, their reports can trigger further action. Moreover, bound as they are to the humanitarian program's time frame, a cutoff date prevents the inertia of the situation in Kashmir or Cyprus.

On first sounding out the concepts in Baghdad, I recalled an earlier idea, which we put forward in a 1981 U.N. report on "Human Rights and Massive Exoduses"—for a corps of "humanitarian observers." These observers were "to monitor situations and contribute through their presence to a de-escalation of tensions," as well as to facilitate humanitarian work. In a refugee context, they could contribute to speedy repatriation. Ahead of their time, they never materialized; however, a decade later the guards represent by another name much of that same philosophy.

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vaccum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Critics remind us that the United Nations enjoys no reputation for rapid response to crises: Its potential must indeed be better tapped. Nonetheless it may step in where other powers rightly hesitate to tread. The guards' deployment was risky and cannot shoulder a burden it was never intended to bear, but it deserves its niche in U.N. history. Whatever the outcome, we must not fear to improvise. When hundreds face death each day, as parents bury their children on barren mountaintops, we cannot await the ideal solution. Relief from starvation and disease brooks no bureaucracy.

Complex humanitarian and political challenges defy easy solution. There are no quick fixes: An idea such as the guards contingent for our operation in Iraq can only be part of a broader package. In such situations, where distrust, distress and violence feed upon each other in a poisonous circle, the antidote must have multiple ingredients. First, tensions must be lowered, with the parties agreeing to show some restraint and to support, at the very least, the implementation of the humanitarian program. Specific agreements to that effect should be concluded between all concerned. Second, civilian authority should prevail, reflecting the spirit if not the letter of a demilitarized region. Third, tentative or interim security arrangements might be ensured through a tripartite grouping of both sides together with international representatives associated with the humanitarian endeavor. Other assurances or leverage may come from outside. The tissue of confidence must be rewoven thread by thread. One missing strand, one unchecked incident, will unravel the safety net.

We cut some corners in sending in a first guards contingent before the ink was dry—in fact before the agreement was even signed. And as they had to be part of the humanitarian package, their funding is dependent upon voluntary contributions, in cash or in kind. So far the response has fallen short of the needs, estimated at some $35 million till the end of the year—about as much as it costs the coalition every week, according to press reports, to keep its forces in northern Iraq. Give us the means to make this operation a success. As the refugees return down our "blue routes," we must keep up the momentum. Peace comes cheaper than war; it is also a good investment. Solidarity today can reap stablility in a volatile region tomorrow.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows that the effects of Congressional action on the budget for fiscal year 1991 and is current through June 10, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 3, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF JUNE 10, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF JUNE 10, 1991—Continued

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
Revenues			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,401.1	−743.9
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level reprsents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (Public Law 101–509). The current level of debt subject to limit reflects the lastest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 10, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions;			
Revenues			834,910
Permaments appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	1	
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses: Emergency supplemental for humanitarian assistance (H.R. 2251)			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

Note. Numbers may not add due to rounding.•

FORCED LABOR IN CHINA

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation that will strengthen our current tariff laws with respect to certain imports. These imports are literally made with the blood, sweat, and tears of forced labor. I commend the Senator from North Carolina for making this body aware of this tragic practice.

In some nations in our world, forced labor, using convicts, prisoners of conscience, and other forms of involuntary service, is endemic. Certain of these nations extract through their captive labor supply literally hundreds of millions of dollars' worth of goods and services to sell on the world market. The world community, which embraces the respect for basic human rights, must necessarily shun this heinous activity.

The two bills that are being introduced today will impart upon those nations that would consider using forced labor as an economic tool that the United States will not tolerate the importation of their ill-gotten gain. The second bill distinctly points to China, a nation that documentary evidence has shown exports products made by forced labor.

While other nations throughout the world may allow such products into their nations, these bills will guarantee that such products do not arrive on American soil. However, should any prohibited product be imported into the United States, remedies and damage provisions will allow afflicted parties the right to sue for treble damages.

Mr. President, few among us could ever condone the use of forced labor. Unfortunately, in some nations, such labor is an integral part of the economy. While the United States may not be able to take direct action to affect a change in this practice, we can take steps to make sure that the result of such behavior does not taint our shores. I am pleased to cosponsor this important legislation and I urge the Senate to take action on these bills.•

THE INTERNATIONAL PARENTAL CHILD KIDNAPING ACT

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the International Parental Child Kidnaping Act. This bill amends the criminal code to make international parental child kidnaping a Federal offense.

Over the years, we have witnessed the increased incidence of family dissolution in America which has brought about a host of associated problems. Among these is child kidnaping. While separation and divorce are frequently marked by competing claims for custody of minor children, recent times have seen losing parties resort to self-help by kidnaping their own children.

In terms of international child kidnaping, the situation is particularly grave. Last year, there were nearly 400 new incidents involving American children who were kidnaped to a foreign country by a noncustodial parent. Some progress in this area has been made since the United States signed the Hague Convention in 1980. Among other things, this convention established regulations to facilitate the return of kidnaped children to their custodial parent. However, the policies adopted at the Hague only pertain to the signatory countries. Since many cases of kidnaping do not involve these nations, serious impediments to solving this troublesome issue remain.

The most effective way to deal with international child kidnaping is to prevent its occurrence. By making this inexcusable act a Federal crime, parents will be deterred from kidnaping their children across national boundaries. The bill that Senator DIXON and I are introducing would allow Federal law enforcement officials to become involved in these cases and would

strengthen their hands when seeking the extradition of an indicted parent. Furthermore, the bill would send a strong message to other nations that we are very serious about preventing this insidious activity.

It is clear that these missing children must not be ignored. Given the international scope of this form of kidnaping, effective enforcement requires Federal intervention. This is a problem that deserves the immediate attention of Congress, and I urge my colleagues to support this important legislation.●

HAPPY BIRTHDAY, PEZZOO

● Mr. DIXON. Mr. President, once in a while you have the pleasure to rise on a grand occasion for a great friend. And the good news is that on June 30 of this year, Harry Pezzullo will be 80 years old. Mr. President, the Great Pezzoo will be 80 years old June 30 of this year.

Mr. President, Harry Pezzullo, and I have been friends for a long time. Following World War II, Harry Pezzullo, the Great Pezzoo, was appointed golf professional at Mission Hills in Northbrook, IL, a position he held for 25 years with great distinction before becoming head pro at Plum Tree National near Harvard, IL. There, he remained in his profession until he joined JDM Country Club in Palm Beach Gardens, FL, some years ago.

He became a leader in his profession and went on to become president of the Illinois section of the PGA of America, an honor he held for 14 years.

He was elected vice president of the National PGA and served for 2 years, during which time he was named Golf Professional of the Year. Later, he was again selected vice president of the National PGA, and during his 3-year post was named to the PGA Tournament Policy Board.

Mr. President, old Pezzoo was a touring pro when he was 19 years of age. He played in the first tournament that Bing Crosby originated back in the middle 1930's and played on the tour with a lot of famous golf firsts, like Sam Snead and others, that are best remembered from another distinguished era.

But, I am here to tell you, Mr. President, that old Pezzoo can still play. Just think of this: For anyone who plays golf—and I take note of the fact that the President in the presiding chair from time to time indulges in that sport—it is meaningful to observe that the man I am talking about, Pro Pezzoo, can break his age's score every day. Here is an 80-year-old gentleman who can go out there every day and beat his age on the golf course and shoot under 80.

I just want to tell you a couple of remarkable events about Pro Pezzoo. I read here from the Providence Sunday Journal, Providence, RI. My friends, the distinguished Senators from Rhode Island, Senators PELL and CHAFEE, know Pro Pezzoo and probably remember many of the things he has done.

Providence Sunday Journal, May 20, 1984:

> One day this past summer Harry Pezzullo fired a course record 65 over the south course of JDM Country Club, Palm Beach Gardens, FL.
>
> Although noteworthy on a local level, such a feat normally wouldn't make national news * * * except that Harry happened to be well into his 74th year.

Think of it: In his 74th year he shot a 65 at the south course at JDM Country Club.

I had the pleasure of playing that course, and I know this was a phenomenal achievement.

Now, let me tell you another thing. On another occasion on the south course, he shot a 66, the topped it all off with an eagle three at the 506-yard, 17th hole. And on another occasion, on the north course, Pro Pezzoo caused a stir when he double-eagled JDM's 520-yard, sixth hole.

Mr. President, I have played that hole, I have the honor to say, with Pro Pezzoo and others who are friends of the Pro's. The hole has since been eliminated in the reformation of the north course at JDM Country Club. But they used to have a marker at the point on that par 5 where Pro Pezzoo hit his second shot to double-eagle the then existing sixth hole of the north course at JDM Country Club.

On the occasion I last played that hole with him, Mr. President, I had the pleasure of playing with him and his very dear friend and close companion, Perry Como, who plays with him on a regular occasion there at that country club.

This is a charming man, a friendly man, a man who remembers everybody's name, always has a kind word for everybody, a man who has been devoted to his profession and been an outstanding golfer for all of his lifetime, and at the age of 80, Mr. President, can do something tomorrow morning that you and I cannot do and that almost every Senator cannot do, Mr. President.

Think of it. Tomorrow morning, perhaps with some luck, SAM NUNN could break 80. Perhaps with some luck, MALCOLM WALLOP could break 80. Tomorrow morning, Mr. President, with some luck, DON NICKLES could break 80. But, Mr. President, for the other 97 of us in the greatest deliberative body in the world, that pleasure is withheld from us. Day after interminable day, we struggle. We fight, we pray, and yet we are denied the pleasure of shooting 80 or less than 80. But on each and every day, Mr. President, the old Pro Pezzoo takes his 80-year-old body on that golf course and shoots less than 80 strokes.

So, I am delighted, Mr. President, on this occasion to send along to a beloved friend, my very best wishes for a happy birthday on June 30, with this one request: He is welcome to come here anytime and be my guest here around the U.S. Senate if he will only teach me how to break 80 once in a while.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, June 13; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the time under the control of the majority leader or his designee.

I further ask unanimous consent that at 10 o'clock tomorrow morning, the Senate resume consideration of S. 1204, the Surface Transportation Efficiency Act, with the Byrd amendments then being temporarily laid aside and Senator DIXON recognized to offer an amendment relating to the numbering of a highway.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MITCHELL. Mr. President, let me repeat in summary fashion what I earlier stated. There will be no further rollcall votes this evening for the reasons earlier stated. The Senate will return to consideration of this bill at 10 a.m., at which time the Senator from Illinois [Mr. DIXON] will be recognized to offer an amendment relating to the numbering of a highway.

We will then be on the bill at the suggestion of the distinguished Republican leader. It is my hope that the respective majority and minority staffs will work this evening and tomorrow morning to develop a list that will reduce to a finite and specified number the amendments that remain to be offered and that, thereafter, we will proceed to consideration of the bill; that, if we complete action by the time of the dinner in the evening, that will obviously be it for this bill. If not, there will be a window time of 2 hours for the dinner following which we will return until we complete action on this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m. tomorrow, Thursday, June 13.

There being no objection, the Senate, at 8:07 p.m., recessed until Thursday, June 13, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 12, 1991:

THE JUDICIARY

ALICE M. BATCHELDER, OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT VICE FREDERICK PIERCE LIVELY, RETIRED.

CLYDE H. HAMILTON, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF STATE

ARTHUR HAYDEN HUGHES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

DEPARTMENT OF STATE

CHRISTOPHER W. S. ROSS, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

DEPARTMENT OF EDUCATION

JEFFREY C. MARTIN, OF TENNESSEE, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION, VICE EDWARD C. STRINGER, RESIGNED.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 12, 1991:

DEPARTMENT OF COMMERCE

PRESTON MOORE, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

ST. VINCENT'S MEDICAL CENTER CELEBRATES ITS 75TH

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BENNETT. Mr. Speaker, on June 1, friends, leadership, and personnel of St. Vincent's Medical Center met in Jacksonville's Convention Center for a banquet celebrating the 75th anniversary of the beginnings of this center in Jacksonville. It was a great occasion. The excellent principal address was given by Sister Irene Kraus, D.C., currently president of the Daughters of Charity National Health System in St. Louis, MO, and formerly president of St. Vincent's Medical Center, Jacksonville. She was introduced by Sister Mary Clare, who is presently chairman of the board and chief executive officer of St. Vincent's. Sister Irene's able speech is included here, with your permission:

ST. VINCENT'S MEDICAL CENTER

Shakespeare, in his epic work "The Tempest," wrote "What's past is prologue." We've heard the expression many times, but it takes on a special meaning for us tonight as we celebrate St. Vincent's 75 years of service. We're bound to think of the past . . . the past 75 years and all that has been accomplished here . . . but also the 358 years of the existence of the Daughters of Charity. "You can't have the one without the other." If St. Vincent de Paul had not started the Daughters of Charity in 1633, would there have been a day in the spring of 1916 when a 42-bed DeSoto sanitarium, in Jacksonville's Springfield neighborhood, would come under influence of the Daughters of Charity?

Yet, this was not the first time the Daughters of Charity had served in Jacksonville. Actually history records that after the explosion of the battleship "Maine" in a Cuban harbor and the declaration of the Spanish-American War in April 1898, Superiors at Emmitsburg, offered the services of the Sisters to the President of the United States. Twenty Daughters of Charity were sent from Emmitsburg to Camp Cuba Libra in Jacksonville. Over 190 Daughters of Charity served as army nurses in the Spanish-American War, four of whom died from diseases contracted during their service.

Innovation springs from people who dare to take risks, and there were risks for the Daughters when they came to Jacksonville. Some accounts from that era give us a little of the local flavor:

"In 1906," the archives tell us, "Jacksonville had four hospitals; Brewster, County, St. Luke's and the new DeSoto Sanitarium. In 1910 a Doctor Gerry Holden wanted DeSoto to become a Catholic hospital. The Bishop gave his approval. The city had grown in a few years from 28,000 to 70,000. The number of Catholics had grown from 2,000 to 6,000. There were about 5,000 Protestants. Others in the population were unchurched by fair-minded."

At first the Daughters thought it not feasible to accept the DeSoto Sanitarium, as St. Luke's was expanding, but after a visit by Emmitsburg authorities, and after learning that St. Lukes' had no room for the poor, the community purchased the hospital for $76,000. May 1, 1916 the Sisters began their work. The staff consisted of one lay supervisor, one matron, fifteen student nurses, two unskilled workers and five Daughters of Charity. Nine beds were occupied.

The records show that they averaged 22/25 patients at all times. At least four of these were always charity patients. It's even recorded that the heat was prostrating. The Sisters, they said, "felt on fire by day, but nights were cool." Three years later, July 19, 1919, the name was changed to St. Vincent's Hospital.

Taking over DeSoto Sanatorium and renaming it St. Vincent's Hospital was only the beginning of the work in Jacksonville. The hospital had to be cleaned and repaired to bring it up to the standards of the day. The facility was a "rickety old wooden building," as Dr. Ed Morrow Jr. remembered it in the early twenties. As important as cleaning up and fixing up, the sisters had to show the community by their words and deeds, that they were sincere and hard-working people—and that, aside from being Sisters, they were people, too, ready to take on their role and place in the city.

Jacksonville, the archives tell us, was unfamiliar with the Sisters, and townspeople were uncertain how to approach them—with curiosity, amusement, suspicion or straightforwardly. They did not know if they could meet a Sister and be confident of friendship or if they should shun these different-looking people.

The Sisters told of walking in the neighborhood and seeing, well ahead, someone on a front porch or doorstep. By the time the Sisters were walking past that spot, the entire family would have assembled to see the "white wings" go by.

The first chief of the medical staff was Dr. John E. Boyd. He was on the staff of the old DeSoto and was one of its owners. It is said that when the DeSoto Sanitarium started to fail he made several trips to Emmitsburg to urge the Daughters of Chairty to come to Jacksonville. He was the only doctor remembered as having a car in those very early days. Dr Amasa D. Stollenwerck, chief of obstetrics, rode a bicycle every day and the archives tell us Dr. Julian E. Gammon took the streetcar and always had an umbrella tucked under his arm.

Another interesting anecdote tells us that the elevator was manually operated. "You had to pull a rope to pull you up and down, so we used the stairs more than the elevator."

Peter Drucker has written: "Whenever you see a successful business, someone once made a courageous decision." How we thank God that there was a courageous woman who wasn't afraid to make a courageous decision.

Remember as a child that one of the most fascinating projects was to plant something and watch it grow. Placing a sweet potato in water and watching the potato take root was a common experiment. Now I learn that in school science fairs' projects are just a little different. The creativity, imagination, and inquisitiveness of the children is amazing. One project was testing the best types of soil in which to grow plants. One so-called "soil" a child used was popcorn, another "soil" was barbecue ashes, another "soil" was dish soap, and so on until the child finally used regular potting soil. You can imagine the wide variety of successes as well as failures of those "soils," to sustain the seeds planted in them.

Why do I mention this? Because I believe over these 75 years, St. Vincent's roots have found their way deep into the Jacksonville soil. There have probably been times when the popcorn soil or the barbecue ashes soil just didn't work. The novelist Lawrence Durrell says that "We are children of our landscape; it dictates thought in the measure to which we are responsive to it."

St. Vincent's has always tried to be responsive to its landscape. Marian Anderson, a famous American singer, once said that the most significant day in her life was not one of the many days on which she received honors, but rather, the day on which she returned to her mother's Philadelphia apartment to tell her that she no longer had to take in washing. Wouldn't we love to be able to tell those first Sisters that they no longer had to feel "on fire" in the hot summer's heat, because we have air conditioning? Wouldn't we love to show them around St. Vincent's today and tell them that their small investment of $76,000 has now grown to have an asset value of $220 million. I tried to calculate that return on investment and my calculator blew up.

But, that's just the economic side. What has been the return on the investment in terms of the Daughters of Charity mission? The healthcare mission of the Daughters of Charity has responded to a real need within the Jacksonville community . . . a need that has brought the best in technology to northeast Florida, but also a need to make a difference within this society, by its distinctive Judeo-Christian identity . . . a diference which is redemptive. St. Vincent's is not only rooted in its own specific history, but in the overall history of the Daughters and the Church. This identity has a richness, a breadth and depth that cannot be totally grasped at any one point in time. St. Vincent's is challenged today to be true to that identity in its fullness. How does St. Vincent's identity make a difference at this time and in this place? This is a question which its Boards, its Medical Staff, its Administration, its volunteers, all of its 2500+ employees need to answer. As we enter the last decade of the 20th century, government, business, hospitals, etc. are looking forward . . . are forecasting . . . are assessing the environment. The message is clear as Darwin's theory: adapt or perish. Perish has never been an alternative for the Daughters of Charity. We need to build on that sense of giving of self, of commitment . . . we need to build on the dedication of lay women and men who have brought St. Vincent's to where it is today.

If the past is prologue, and if today is almost gone, what will tomorrow bring? What

is the shape of things to come? Every organization, and St. Vincent's is no exception, has a distinct culture, which must be managed as it faces the 21st century. What's really going on? Is major change in health care delivery underway? Yes, and the phenomenon involves "resizing" more than downsizing. Demographics, technology, fiscal pressure and public opinion, all will combine to spur local health care reform. St. Vincent's must take the lead in the Jacksonville community. St. Vincent's must look to link up with others—collaborate rather than compete. St. Vincent must work to change public perceptions of hospitals from buildings, full of beds, to a network of centers and services striving to meet local community health needs in the broadest meaning of the term. What the former United States House of Representatives' Speaker, Tip O'Neill said: "All politics are local," may end up being true of health care reform also.

"If one wanders back through the pages of the past, one will discover many places where the course of nations and even the world hinged on an insignificant detail.

"Not too many years ago a man was walking down a street in New York City. Lost in his thoughts, he came to a busy intersection. Unaware that the lights had changed, he stepped into the path of passing traffic. Nearby stood a cab driver who saw the man in danger. At the last moment the driver pulled the man to safety. The world may not remember the name of that cab driver, but it will never forget the man who was pulled to safety that night in New York. In the darkest hours of this century, he pled with his world to die rather than surrender. History still recalls this man's gravelly voice as he stood in the British Parliament and promised England its "finest hour." But on that night in New York the life of Winston Churchill was in the hands of the cab driver."[1]

We are looking to tomorrow. We are trying to capture a vision. We are looking for a road map which will allow our higher purposes to be expressed . . . an outward expression of our inner values as you and I see the dilemmas facing St. Vincent's and all health care. How can we create a high quality, accessible, affordable health care delivery system in the United States and still maintain our value system. Louis Gerstner, Chairman and CEO of Nabisco, Inc. has said: "To turn our public school around we need to adopt that legendary Noah principle: No more prizes for predicting rain. Prizes only for building arks."

We could paraphrase that and say "To turn our health care system around we'll adopt the Noah principle: No more prizes for predicting rain. Prizes only for building arks."

There have been too many predictions of rain—gloom and doom . . . failure and collapse. We need to build arks. We need to take this puzzle of health care that consists of many plots and plans, and put it together. It's always interesting and challenging to work a difficult jigsaw puzzle. Puzzles are time-consuming, sometimes therapeutic, often frustrating, as we try to find one peculiar piece. Doing puzzles is like eating popcorn; you can't put in just one piece and stop; you become immersed in the task of putting the whole thing together. The poet Charles Kettering once said. "You don't buy a fiddle today and play in Carnegie Hall tomorrow."

The leadership imperative . . . hospital repositioning are musts for St. Vincent's. The danger of becoming less enviable is totally unacceptable . . . to become sluggish, unresponsive, ineffective are "no-no's" for St. Vincent's. Good organizational glue is a must as St. Vincent's faces the next ten years. These are not the best of times in U.S. health care, but they're not the worst of times either. We do need reform in the American health system, but there is a lot right in the system. "The spirit, the service and the structure" are what Emily Friedman says are worth saving. "The system's faults are cost, fragmentation, failure of competition, accessibility. We must think about why we're here. One health care system will preserve much of its essential goodness, but it must change the parts that are not working."[2]

Friends of St. Vincent's, as you look to the next century, as you look to St. Vincent's next 75 years, you have an unprecedented opportunity for this organization to excel. Respond aggressively! You are major stakeholders! You have a "can do" spirit . . . a spirit that goes back to 1916 . . . a spirit that has brought us to this Jubilee year.

Actually Jubilee years come from our Jewish heritage. The Jewish law carried the belief that in a jubilee year there should be a release from debt, a freeing from prisoners and a caring for others based on the needs of society to equalize and balance. As you can see, early Judaism had no notion of separation of Church and state. Laws were created to cover both religious and secular practice. For society to succeed, no one should accumulate too much wealth and no one should live in abject poverty. In today's environment, one might construe the concept as a form of socialism, but in the Judaism before Christ it was a method of equalizing society, so every 50 years the law called for a jubilee celebration.

A Rabbi told me that the concept of Jubilee was diminished with the destruction of the temple in Jerusalem by Emperor Titus in the year 70 A.D. Jewish scholars believe that it will return with the coming of the Messiah. The Christian faith picked up on the aspect of Jubilee through the teachings and example of Christ for this reason we celebrate all kinds of Jubilees.

Thus, we are here tonight in a joyous celebration . . . not necessarily to release others (or St. Vincent's for that matter) from debt, although I must admit, the idea is enticing, but certainly the other belief of "jubilee," that of caring for others, based on the need of society to equalize and balance, is what St. Vincent's is all about.

How do we do this? Certainly not by following the "5% principle." In a little book entitled "The Penguin Principles," the author elaborates what he calls the 5 percent principle. It is his conviction that in every group working together on a project, 5 percent are putting forth effort out of love. The other 95 percent are asking "What's in this for me?"

I think we carry out the intent of a jubilee . . . of caring for others . . . by realizing as a Daughters of Charity health care institution, that we are united with many others throughout the United States in a common bond and a common purpose. That we stimulate each other . . . we encourage each other . . . we support each other in numerous ways, thus enabling all to survive. This is best depicted in what I call my goose story: Did you ever notice geese flying in formation? We can learn a strong lesson of leadership and support from them. As each bird flaps its wings by flying in a V-formation, the whole flock adds 71 percent flying range than if each bird flew alone.

Lesson: People who share a common direction and sense of community can get where they are going quicker and easier because they are travelling on the thrust of one another.

Whenever a goose falls out of formation, it quickly gets back into formation to take advantage of the "lifting power" of the bird immediately in front.

Lesson: If we have as much sense as a goose, we will step in formation with those who are headed where we want to go.

When the lead goose gets tired, it rotates back into the formation and another goose flies at the point position.

Lesson: It pays to take turns doing the hard tasks, and sharing the leadership, interdependent with each other.

The geese in formation honk from behind to encourage those up front to keep up their speed.

Lesson: We need to make sure our honking from behind is encouraging—not something less helpful.

When a goose gets sick or wounded or shot down, two geese drop out of formation and follow to help and protect. They stay until the goose is either able to fly again or dies.

Lesson: If we have as much sense as the geese, we'll stand by each other like that.

Yes, as a national health system we have to learn to think as one, yet respect local diversity.

This last decade of the 20th century is presenting us with a golden opportunity to carry out the meaning of jubilee. We have much experience in initiating and developing services and structures, but maybe we're not always as willing to release, relinquish or realign them. Yet a vision may present this concept. A renewed commitment to health ministry will entail significant collaboration among those who share the Church's values.[3] It will call for change. It will cause concern and consternation. We are living in a time of great ambiguity and uncertainty. Margaret Thatcher has said: "Poor in spirit, we suffered from that most demoralizing form of poverty—poverty of conviction. Britain was a country without a cause."

We can never say that. We have had a cause, and a good one at that, for a long, long time.

It is one of life's givens that we take turns at glowing. Eventually, our flame will flicker and peter out. But no matter. Our cause is a good one and the shared and perpetuated memory of its burning is what St. Vincent's is all about.

There will be other jubilee celebrations for St. Vincent's at which probably none of us will be present, but what we do here in Jacksonville in this time and place will not be forgotten.

I'm frequently asked: "What about the Daughters of Charity? Are they going to be around for the next 75 years?" Of course, I'm no prophet. I can't say for sure, but I think I can say we'll be around in some form—maybe not as we know it today. Is the DeSoto Sanitarium still here? Not as it was known then. As I said a few minutes ago, we take turns glowing, but the spirit of the Daughters * * * their work * * * their commitment will live on in Jacksonville through their presence here, as well as

[1] Fitzgerald, Ernest, A. "Sweating the Small Stuff." Administrative Radiology. May, 1990, p. 10.

[2] Friedman, Emily. "To Save and To Let Go," HMO. Third Quarter, 1990, p.2.

[3] Commission on Catholic Health Care Ministry Report. "Catholic Health Ministry: A New Vision for a New Century." 1988, p. 13.

through the countless men and women who have joined in their crusade to celebrate a jubilee, by caring for others, thus equalizing and balancing the society of the 21st century.

In the first homily by a newly-ordained bishop he recalled how restaurant personnel frequently introduce themselves by name and say: "I'm Joan and I'll be serving you this evening." "Well," said the Bishop, "I'm Kenneth and I'll be serving you for a long, long time." I would like to say to you tonight, as St. Vincent's shouts out a joyous, "Amen * * * Alleluia," for 75 glorious years, "We're Daughters of Charity, and with God's help we'll be serving you for a long, long time."

TRIBUTE TO CHARLES "CHIP" WRAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. BOXER. Mr. Speaker, the U.S. Congress is an appropriate forum in which to offer special recognition of one of the truly outstanding educators in our country, Charles "Chip" Wray.

Some of his beliefs and values are inscribed on the walls of classroom 203 at Redwood High School in Larkspur, CA:

Those who make peaceful revolution impossible, make violent revolution inevitable.—(John F. Kennedy).

Live each day like it's going to be your last, because someday you're going to be right.—(Leo Buscaglia).

Everyone is bored—before they start doing something.—(A.S. Neill).

For the past 30 years, Chip Wray has been a model of these beliefs to his students. He has, over the years and among other things: created, planned, organized, and taught an environmental education program that is nationally acclaimed; written and piloted a contemporary issues course of study; been selected Marin County Teacher of the Year; been an exchange teacher in England; been president of his teachers' association more times than F.D.R. was President of the United States; been president of the Marin Conservation League; been chairman of the Marin Municipal Water District board; earned a rank of Lieutenant Colonel in the U.S. Army; served as Senator ALAN SIMPSON's aide in Washington during a sabbatical in 1980; acted on behalf of civil rights in El Salvador, where he was arrested and jailed for supporting peasants' rights to their land; led backpack trips to the Sierra and Canadian Rockies; walked the Theakston Trail from Derbyshire to North Yorkshire in England; rebuilt a farmhouse in Sonoma County; initiated and motivated his school's annual blood drive; established a local aluminum recycling program; sustained a successful marriage to his high school sweetheart, with whom he has four children who are all now raising their own families.

Chip Wray has been for literally thousands of students a model of the industrious, personally responsible, moral, and compassionate human being we seek in our society.

There is a wonderful episode in Robert Bolt's dramatization of Thomas More, "A Man for All Seasons," where Thomas encourages young Rich to become a teacher. The worldly and ambitious side of Master Rich responds with some shock and anguish, "But * * * why? That would I achieve? And who would ever know? Thomas replies: "Ah, Master Rich, God would know, the students would know, and most of all, you would know."

I have watched Chip Wray quietly affect the minds and lives of his students and peers throughout his many professional years at Redwood High School, and now I, too, know what Thomas More envisioned as the good teacher.

Chip Wray has earned our deepest respect and admiration.

EGYPTIAN HUMAN RIGHTS VIOLATIONS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, I would like to call the attention of the Congress to the situation of three Egyptian prisoners of conscience who are being held for their religious beliefs.

The three men, Mustafa Mohammad Said al-Sharqawi, Mohammad Hussein Mohammad Ibrahim Sallam, and Hassan Mohammad Isma'il Mohammad, have each been detained for over 8 months because of their conversion from Islam to Christianity and their nonviolent religious activities.

Mustafa Mohammad Said al-Sharqawi and Mohammad Hussein Ibrahim Sallam were arrested at the end of September 1990 and Hassan Mohammad Isma'il Mohammad was arrested in October 1990. These arrests came after the three men converted to Christianity and spoke to others about their beliefs.

The Government of Egypt, in response to letters from Amnesty International, stated that these three men are being held to protect social peace and national unity. The Government claimed that the three men held meetings in which Islam was compared to Christianity in a manner which could cause civil strife.

Amnesty International disagrees with these Government conclusions, stating that, "These three men have merely exercised their right to freedom of religion and speech, without using or advocating violence." These rights are guaranteed under the International Covenant on Civil and Political Rights, an agreement to which Egypt is a party.

Egyptian courts twice ordered the release of the three men when they were being held under state of emergency legislation. After the second court order, the prisoners' status was changed so that they were being held under the criminal procedure code, which empowers the state prosecutor's office, the Niyaba, to hold a prisoner for 15 days. This may be extended to 60 days by a member of the Niyaba acting as presiding judge. This period expired in March. Several "final hearings" have been scheduled, only to be postponed each time.

Mr. Speaker, I suggest that Congress direct the President and the Department of State to pressure the Egyptian Government to release these prisoners of conscience and to provide them and all other religious converts with the privileges guaranteed by the International Covenant on Civil and Political Rights.

HONORING THE QUEENS COUNCIL ON THE ARTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to the Queens Council on the Arts. On Sunday, June 9, the Queens Council on the Arts will be holding a 25th anniversary benefit celebration to commemorate a quarter century of outstanding service to the community.

Twenty-five years ago, the council served only a handful of arts organizations. Today, the New York City Borough of Queens boasts nearly 500 of these organizations and hundreds more individual artists. Queens Council on the Arts has dutifully and faithfully provided these members with technical assistance, advocacy, financial support, publications, promotion, and many other services and programs to help them build audiences, gain exposure and funds, and grow artistically. From the borough's major cultural institutions to urban folk artists keeping alive a wealth of ethnic traditions, the Queens Council on the Arts serves all the cultural resources of the borough.

A quarter century of support and leadership have distinguished the Queens Council as a singularly valuable resource for business, governmental agencies, educational institutions, and others. Queens Council fosters partnerships which match needs with resources, and thus has consistently helped the borough more fully enjoy and utilize its cultural resources.

Mr. Speaker, it is organizations such as the Queens Council on the Arts that enrich our communities in every phase of life. I would ask my colleagues to join me in saluting the Queens Council on the Arts and all of its dedicated workers. We wish them continued success in making our community a better place.

CORRECTION OF HOUSE REPORT 102–61

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MILLER of California. Mr. Speaker, H.R. 972 passed the House of Representatives on May 14, 1991. This bill, sponsored by Mr. RICHARDSON, affirms the sovereign right of tribes to exercise criminal misdemeanor jurisdiction over all Indians in Indian country. In 1990, the Supreme Court decision of *Duro* v. *Reina* (58 U.S.L.W. 4643, May 29, 1990) attempted to limit this jurisdiction to tribal members only. The Duro decision created a jurisdictional void for nonmember Indians that jeopardized the public safety on reservations as well as the sovereignty of tribal governments.

In response to the urgent request of tribes and law enforcement officials, the House of Representatives passed H.R. 972. Unfortunately, the urgency of the situation resulted in three minor errors going undetected in House Report 102–61 which was filed by the Committee on Interior and Insular Affairs to accompany H.R. 972. The report should be corrected for the record as follows:

On page two, line four, the words "aiding and abetting" should be deleted. The sentence, as corrected, should read: "A complaint was filed in federal court charging Duro with murder and with aiding and abetting murder under federal criminal law.".

On page seven, lines sixteen and seventeen, the words "enunciated by Mr. Justice Kennedy in the *Duro* decision" should be deleted. The sentence, as corrected should read: "The Committee assertion is based upon two fundamental maxims of Indian law that (i) Congress determined Indian policy and (ii) tribes retain all rights not expressly taken by Congress.".

On page ten, under "25 U.S.C. 1301. Definitions.", the phrase "For the purposes of this title [25 U.S.C. 1301 et. seq.], the term—" should be deleted. The phrase, as corrected, should read: "For the purposes of this subchapter, the term—".

Mr. Speaker, we make these corrections to make clear the committee's acknowledgment of the fact that tribes—first, have always been able to exercise misdemeanor criminal jurisdiction over all Indians on tribal lands; second, that Congress never took the jurisdiction away; and third, that tribes clearly retain this jurisdiction as self-governing entities and as keepers of the peace on their homelands.

UNITED STATES BEGINS ASSISTANCE TO ALBANIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HAMILTON. Mr. Speaker, on June 6, 1991, I received a letter from the Department of State outlining the administration's intention to begin an assistance program for Albania with funds appropriated pursuant to the "Support for East European Democracy of 1989." The text of the letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, June 6, 1991.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I would like to inform you of our intention to use funds appropriated pursuant to the Support for East European Democracies Act of 1989 and the Foreign Operations Export Financing and Related Programs Appropriations Act of 1990 to provide a modest amount of assistance for Albania. Initially, that assistance program would concentrate on strengthening democratic institutions and meeting humanitarian needs. As the situation evolves, limited technical assistance would be provided to lay the groundwork for economic reform, for example, in providing advice on how other countries of the region are dealing with micro- and macro-level issues as they establish market-based economies.

This assistance would be adapted from the regional programs we are beginning in other countries of the region. We anticipate this would include the following programs for Albania:

Political process; Local Government and Public Administration; Social Process; Rule of Law; Restructuring Agriculture and Agribusiness; Competition policy, laws and regulations; Emergency Medical Supply; Health Care Systems Improvement; Improved Public Environmental Services.

Although we do not have country ceilings in our programs, we would not plan to spend more than $5–7 million for the remainder of FY 1991 in Albania from funds appropriated for East European assistance. Given the difficulty of providing assistance in a country where we have very limited presence and where there are few facilities for advisers, AID representatives etc., we assume any assistance for Albania will be slow to gather momentum. But we think it would be timely to begin with a small amount of assistance this year to demonstrate our support for political and economic reform.

It is our view that the authority to provide this assistance to Albania is contained in the Support for East European Democracies Act of 1989 and the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1990, and that we may use this authority "notwithstanding any other provision of law."

We would be pleased to discuss further any aspect of our proposed assistance to Albania.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

THE JAPANESE MEDICAL MISSION

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. BOXER. Mr. Speaker, on June 20, a team of physicians from Hiroshima, Japan will arrive in San Francisco to participate in the eighth biennial medical examinations for Americans of Japanese and Korean ancestry who survived the atomic bombings of Hiroshima and Nagasaki. I am pleased to have this opportunity to welcome the medical team and recognize their efforts and achievements and to commend and thank their sponsors for their contributions, services, and compassion.

Since 1977, the Japanese Government has financed and sponsored official biennial medical missions for the benefit of American survivors living in the United States who, due to their exposure to radiation in the 1945 bombings, suffer and are threatened by continuing medical problems. Examinations will be held in San Francisco, Los Angeles, Seattle, and Honolulu during June and July. This year's medical mission is sponsored by the Japanese Ministry of Health and Welfare, the Hiroshima Prefectural Medical Association, the Radiation Effects Research Foundation, Hiroshima and Prefecture, the Hiroshima Atomic Bomb Casualty Council, and the city of Hiroshima.

Participating in this year's examinations are Chikako Ito, M.D., team leader, associate director for International Scientific Affairs, Hiroshima Prefectural Medical Association, deputy director, Hiroshima Atomic Bomb Casualty Council Health Management Center; Hideo Sasaki, M.D., associate chief, Department of Clinical Studies, Radiation Effects Research Foundation; Kazuo Nerjishi, M.D., chief, division of internal medicine, Department of Clinical Studies, Radiation Effects Research Foundation; Akihiro Sawamura, M.D., chief of clinical section research associate, Department of Surgery Research Institute for Nuclear Medicine and Biology, Hiroshima University; Kenji Oda, M.D., associate chief, Department of Internal Medicine, Hiroshima City Asa Hospital; Sadamatsu Takayama, M.D., clinical chief, Clinical Laboratory Center of Hiroshima City Medical Association, Tadaaki Watanabe, international relations unit, external affairs section, secretariat, Radiation Effects Research Foundation; Takahura Une, Chief, special measure section, Atomic Bomb Victims' Affairs Division, Hiroshima Prefectural Government; Hiroshi Fujimoto, director, Relief Division, Atomic Bomb Survivors Relief Department, Bureau of Public Health, Hiroshima City; and Katsumi Akama, chief, special measure section, Planning Division, Health and Human Services Bureau, Ministry of Health and Welfare.

More than 200,000 people died In the bombings or shortly thereafter as the result of acute injuries. Today, among the more than 350,000 hibakusha—survivors of the atomic bombings—are approximately 1,000 Americans. Many of the American hibakusha are citizens by birth who were either visiting relatives or attending school in Japan. Others became naturalized citizens or permanent residents after the war. Denied medical assistance by the United States Government, the biennial Japanese medical visits are the only ongoing opportunity for American hibakusha to receive thorough examinations for long-term effects of their radiation exposure. In 1989, the Japanese medical team conducted 406 examinations. This year, it is hoped that over 130 examinations will be conducted in San Francisco alone. The Japanese medical mission receives volunteer support and contributions from dedicated groups and individuals across the country, but more is needed.

METRIC AND OPERATION DESERT STORM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, Operations Desert Shield and Desert Storm mark the first strategic deployment of our metric military. All ships were fueled using the metric system of measurement for standardization of ships of different countries. The U.S. Navy used 17 ships in Operation Desert Shield which had been designed in metric. Except in instances where international standards are nonmetric, all Defense maps are also now in metric. Those of us who listened to General Schwarzkopf and others during Operation Desert Shield realize that metric usage is now second nature of our military and an invaluable part of Allied interoperability. Our metric military manuevers were flawless.

Flawless maneuvers are always based on hard work and years of preparation. The Defense Department concluded during the 1980's that interoperability with Allied equipment required a common system of measurement. Since all other industrialized nations had converted to the metric system of measurement, the Department needed to do the same. DOD Directive 4120.18 in late 1978 declared that all future weapons systems would be designed in metric and with the passage of the Metric Usage Act in 1988, the Assistant Secretary of Defense for Production and Logistics requested each of the services to review inch-pound weapon systems programs still in the demonstration validation phase for viable candidates for metric conversion.

It is now time to look to interoperability in U.S. trade as well. More and more nations and companies are requiring that United States exports must be in metric, and Japan in the strategic impediments initiative has cited United States adherence to the inch-pound system of measurements as a nontariff trade barrier. The metric system is inherently easier to use and with practice, easier to understand and cheaper to use. This is one instance where the Japanese are doing us a favor. Let's look for ways to help industry convert to metric as part of our effort to restore America's competitiveness.

HONORING BENJAMIN J. DOROGASKER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Benjamin J. Dorogasker, who is retiring after 16 years as principal of Public School 117 in Queens County, NY. During his administration the DEAR [Drop Everything and Read] Program became an integral element at Public School 117. He established departmentalization for reading and math among the fifth and sixth grade classes to put special emphasis on these vital skills. This program will be extended to the fourth grade class for the 1991 school year.

Public School 117 is an example of a multicultural school. The student body is represented by children from a great variety of racial, religious, and cultural entities. Twenty-seven different primary languages are spoken among the students.

Benjamin Dorogasker is a fine example of the dedicated teachers and administrators in our public school systems. His hard work and dedication have led to innovative programs that have greatly benefitted his students. On his retirement I ask that my colleagues join me in honoring Benjamin Dorogasker. He will be greatly missed but we wish him the best of luck in all of his future endeavors.

REPRESENTATIVE MILLER HONORS DR. GEORGE DEGNAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MILLER of California. Mr. Speaker, I take a moment today to recognize Dr. George Degnan.

As an entrusted friend and valued adviser to both myself and my father, Dr. Degnan has been instrumental in shaping the health-care system of Contra Costa County for nearly five decades. During his tenure as county medical adviser, he acted as a pioneer in creating our county's services and in his retirement, he has been a relentless advocate for increased and improved availability of health-care for everyone. His commitment over the years continues to provide inspiration to those of us involved with this issue today.

I am enclosing in the CONGRESSIONAL RECORD today a review of this outstanding physician and humanitarian and know that all Members of the House of Representatives will join me in paying tribute to Dr. Degnan.

EX-HEALTH CHIEF STILL FIGHTS FOR MEDICAL CARE FOR THE POOR

(By Ann Wozencraft)

MARTINEZ.—Former county Medical Director George Degnan has been retired nearly 13 years, but his beliefs haven't changed. Not one bit.

As Contra Costa's medical director 29 years. Degnan was instrumental in laying the groundwork for the county's health-care system.

Now 78, Degnan's ideals and opinions still echo the days when he lobbied the county Board of Supervisors to provide health care for everyone, even those without insurance.

"Unless we plan to shoot everyone who's sick, we have to try to rectify the deficiencies in our health-care system," says Degnan. "We have to take care of our neighbor who's suffering, even if he doesn't have a dime."

During his tenure, Degnan campaigned for a prepaid health plan at the county hospital, making it the first such publicly backed health maintenance organization in the country. The county also developed day-care clinics under his guidance for the mentally handicapped. And he established the county's first health-care clinics, in Pittsburg, Richmond and Brentwood, where many low-income families lived.

"We were a county hospital and the poor people we were serving couldn't get here," Degnan says. "I learned through experience that easy access is the way to save money and prevent serious illness. If I had a clinic going, I could see these people early and prevent building beds later. All illnesses, if detected early, save you suffering and money."

Degnan's beliefs are rooted in his Depression-era upbringing. Born in the lumber country of Humboldt County, he was the son of a saw-filer.

"In those years, you didn't have the money to indulge yourself in material things," Degnan says. "You became very aware of the social struggles, that people were out of work and hungry. You came out of the Depression not with bitterness, but with increased sensitivity."

FINISHED SCHOOLING DURING WAR

Degnan's family moved to Richmond. He graduated from Richmond High School, UC-Berkeley and McGill Medical School in Montreal. When he finished his residency at UC-San Francisco, America was at war.

His concern for the needy was solidified during the six years he spent in London as a volunteer surgeon in World War II.

"I arrived in England during the blitzkreig," Degnan says. "To see the way they continued under such stress, when they were tired and hungry and being bombed, was marvelous. For the first time in my life, I knew what it was like to be hungry and cold."

When he returned from war, Degnan decided to forgo private practice and went to the county hospital, believing he could make a difference.

That was 1947, and he was the hospital's only fulltime doctor.

"I put on my old surgical pajamas and never left the hospital for two years." Degnan says. "It wasn't a sacrifice because I knew I was needed there."

Degnan succeeded Edwin Merrithew as county medical director in 1949. During his years at the helm, Degnan gained both friends and foes for his political views.

"I was what you'd call a liberal Democrat," he says, "I still am."

In 1973, the Board of Supervisors fired him, Degnan says, but more than 300 of his supporters packed the supervisors' chambers. He was reinstated a week later, and stayed on another five years.

Degnan says much of his political strength came from poor blacks and Hispanics in West and East County.

"Sometimes I felt like my skin was dark, too," he says. "I understood them because I knew what it was like to be poor and suffering and hungry, I learned that during the war."

Degnan says he stumbled into his political role as a health-care advocate for the poor.

"It wasn't like I went out and said I was going to find a constituency. You just find yourself in the middle of as struggle for social change, and you become part of it," he says. "Politically, I identified with the struggle of the blacks and Hispanics. It was a struggle for equity and fairness."

Now that he's out of the limelight, Degnan says he considers himself a consumer who's concerned where his tax dollars are going.

SPEND WHERE THE PATIENTS ARE

His latest goal: to redirect the funding for a new county hospital. Instead of rebuilding the county hospital in Martinez, Degnan says, it should join forces with county district hospitals such as Brookside in San Pablo and Los Medanos in Pittsburg. Martinez, he says, is not home to the low-income patients the county hospital serves.

"If we're going to spend hundreds of millions of dollars on health care, let's at least spend it where the patients are," he says. "We can strengthen those facilities by putting that money into better diagnostic facilities and high technology."

Communication, he says, is still his biggest obstacle when it comes to the political process.

"I wasn't blessed with much diplomacy," Degnan says. "Outside, I'm cocky and confident. But inside, it still gets to me sometimes."

When he's not advocating for a decentralized county health-care system, Degnan is an avid sailor. He lives with his wife of 36 years, Andree, in a hilltop house in Briones Park. His two sons are doctors, and his daughter is

a nurse at the county hospital. He says he has shared with his children his love of medicine and of people.

"I'm not a good doctor if I operate on you and take care of you, and I don't know where you come from, and where you're going," Degnan says. "That's the kind of doctor we should all struggle to be. The greatest medicine you'll ever use is kindness."

THE DEMISE OF THE U.S. TUNA INDUSTRY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to Miss Teresa Maria Floridi, one of the winners of the Propeller Club of the United States' national essay contest. I think her hard work and dedication deserve to be commended.

I submit for the RECORD the following award-winning essay, by Miss Floridi, entitled "The Demise of the United States Tuna Industry."

THE DEMISE OF THE U.S. TUNA INDUSTRY

Although most tend to think about the positive impacts on ports and waterways, it is the negative impacts that emphasize the importance of ports and waterways on the regional well-being. Nothing is more valuable to a coastal city than its port. When something interferes with its proper functioning, it not only affects the workers but the general public as well. One such example is the demise of the United States Tuna Industry in general and specifically in San Diego, California. The damage from the relocation of the tuna industry to foreign ports from 1980 to 1984 has proved to be and continues to be far reaching as it stems from economical and political issues.

Once the tuna is unloaded on to the city's docks, and processing begins, it becomes a economic commodity for the city. Not only do the tuna companies, and their employees make money but also the city from port and sales taxes, as well as any income generated by the worker's spending. Shipyards also benefit from servicing the various fleets, and oil companies benefit from the fuel supplied to the fleets. One ton of tuna yields sixty cases of tuna, and there are forth-eight cans per case. In 1980, the 200,000 tons of tuna in the United States had an exvessel value of approximately two hundred million dollars. By the time it was processed and packaged for market, the tuna was worth four hundred million dollars. It has stimulated one billion dollars in economic activity besides generating 12,000 jobs and three hundred million dollars in household income in the United States.

During the years 1980 to 1984, there was an increasing trend toward relocating United States tuna operations to other foreign ports such as Puerto Rico and America Samoa, as well as tuna companies selling operations to foreign companies. The total economic impact of this relocation between 1980 and 1984 included a loss of 12,561 jobs, $293,959,000 in household income, and $1,318,747,000 in United States sales. The federal government lost $58,791,000 in income tax, and the state of California lost $7,368,000 in taxes.

The tuna industry has been a major part of San Diego's main port industries since 1919. In the late 1950's there were as many as six canneries, but by the 1960's only one cannery remained. A second cannery was added in 1976, but during the fateful four years, they to relocated out of San Diego. Besides the two main factors that affected the tuna industry in general, foreign competition and environmental pressures, San Diego had a third problem with the rapid development of a coastline for the sole purpose of tourism instead of a balanced one which includes industry.

With the ability to produce a less expensive product, foreign markets have become increasingly popular among United States canneries. United States cannery wages are approximately seven dollars an hour, and labor costs are three to four dollars per standard case. In Thailand wages are forty cents an hour, and in America Samoa wages are three dollars an hour. Labor costs per standard case in Thailand are sixteen to twenty-four cents, and in America Samoa $1.20 to $1.80. Many choose price over the better standards in food inspection available in United States industries. Of the canned tuna sold in the United States approximately ninety-eight percent has been packed in other countries.

Pressures from the government and environmental groups in regards to porpoises is another factor contributing to the downfall of the United States tuna industry. Tuna are naturally attracted to porpoises. They cannot be separated by man. In 1958, the "backdown procedure" developed by Captain Anton Misetich of San Pedro, California enables fishermen to keep the tuna and release the porpoises alive by sliding the porpoises over a small mesh panel of net in the backdown area. Sometimes porpoises are confined in such a way that they can not rise to breathe because of a delay in the backdown process by way of weather, sharks or any other uncontrollable acts. This ends up in the death of the porpoises. Tuna fishermen want to release the porpoises alive otherwise the operations become less efficient. In order to free tangled porpoises, fishermen enter the net just before brailing the tuna from the net. Sharks also present in the net make it dangerous for these fishermen. To date in San Diego, there has been one death, Jerry Correia, from a shark. Foundation, who's goal has been to reduce the number of porpoise deaths, since 1974. In June of 1990, Dr. Joseph at the forty-seventh meeting of the Inter-American Tropical Tuna Commission told members of the government in Washington, D.C., that ". . . if fishing for tunas in association with dolphins were abandoned, the average size of the fish in catch would fall to about eight pounds, and the corresponding yield per recruit would drop by nearly forty percent . . . if fishing for tunas associated with dolphins is discontinued, the yield of yellowfin in the eastern Pacific would fall to about 160 thousand tons after two years, instead of the 310-320 thousand tons currently estimated." Tuna do not associate with dolphins until two years of age, and twenty-six pounds. That means fisherman would be depleting the future sources of more tuna by catching babies. These tuna are usually found beyond the two hundred mile zones allowed by government. United States tuna fishermen can not compete with foreign markets who have less or no restrictions.

In 1990, the porpoise mortality rate of the United States tuna fleets out of the first 17,237 tons caught was zero. Of the following 5,024 there was 231 deaths, and out of the following 2,485 with a total of 24,746 tuna caught there were 451 deaths. 1989 data showed that there were 186 deaths per 1,000 tons of tuna caught. Foreign mortality rates for porpoises in 1989 were 608 deaths per 1,000 tons of tuna. United States' rates for 1990 were 140 deaths per 1,000 tons caught. Not only was it an improvement, but it was three to four times better than the foreign industry.

Despite this knowledge, the tuna industry has been wrongly labeled as porpoise killers. United States tuna canners will no longer buy tuna that is caught with dolphins. This has directly caused the reduction, and in some cases the closing down of tuna operations in the United States. Environmental groups such as Greenpeace have pressured the government to severly restrict the practices of the United States tuna industry even to a point creating redundant and expensive methods. For example, the government wanted fishermen to take the tuna they normally throw back into the ocean and treat them with special chemicals while disposing of them through the sewage system. This unnecessary process would cost millions of dollars that were unaffordable to the * * *.

With twenty percent of the world's production of tuna, the United States is forsaking a major source of revenues. It is the workers and their families who suffer. The future of the United States tuna industry is bleak. Its rapid degression especially in San Diego, California is a senseless waste of a valuable natural resource, the coast. Unless the United States government takes drastic measures to stop the foreign markets' intervention, and recognizes the fact that the fishermen have no choice when it comes to catching tuna in association with dolphins, but that they are trying to find a solution, the tuna industry can not exist.

SALUTE TO ROBERT A. DICARLO, OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S PAUL HARRIS FELLOW AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding constituent in my Eighth Congressional District of New Jersey who, for the past decade, has given of himself to his community, State, and Nation, and who has made us all the better for his efforts.

I am speaking of Robert A. DiCarlo, of Wayne, NJ, who will be honored for his great service on Wednesday, June 26, 1991, by the Wayne Rotary Club, which he has served with much distinction these past 10 years. On that day, for his outstanding efforts, Robert A. DiCarlo, will receive the Paul Harris Award, the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. DiCarlo is one of the greatest magnitude.

Mr. Speaker, I know this event will be a great source of pride to Robert and his loving family: his devoted wife, Charlotte, and their four children, Toni Ann, Debbie, Maria, and Robert II.

Mr. Speaker, Robert A. DiCarlo was born in South Philadelphia, PA, and soon after moved to and was raised in the Riverside section of Paterson. There he attended School No. 21 and graduated from Eastside High School. After graduation he served 2 years of active duty with the U.S. Army, one and half of those years in Munich, pulling the most difficult duty of morning report coordinator for Southern Germany.

Following his work with the Army, Robert held a management position with the Bergen Record for 16 years. He left the Record in 1981 to open his own printing business. He simultaneously attended night school at the Fairleigh Dickinson University at the Teaneck Campus for 4 years.

Beyond Robert's noted professional endeavors have been his numerous vital contributions to his community, for which the Wayne Rotary Club is honoring him. He joined the Rotary Club in 1982 and was elected president in 1989. He has been an integral part of the Wayne Rotary Club, serving as sergeant-of-arms, treasurer, and vice president.

Mr. Speaker, along with his numerous Rotary activities, Robert DiCarlo has been deeply involved in numerous community endeavors. He served as chairman on the Handicapped Children's Committee of the Wayne Elks, and held the position of vice president of the Greater Wayne Area Chamber of Commerce. His hobbies include a wide range of activities from golf to fishing to thoroughbred racing.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a man who has given of himself to his community, his State, and our Nation, and who has immeasurably improved his world through his innumerable contributions, Robert A. DiCarlo, recipient of the Wayne Rotary's Paul Harris Award.

PERMANENT DISPLAY OF THE AMERICAN FLAG AT VIETNAM VETERANS MEMORIAL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. DORNAN of California. Mr. Speaker, yesterday I had the distinct pleasure of testifying before the National Capital Memorial Commission regarding H.R. 662, legislation concerning the permanent display of the American flag at the Vietnam Veterans Memorial.

Given the recent surge in patriotism and pride in the U.S. Armed Forces due to Operation Desert Storm, now is the time for Congress to revisit this very important bill which would honor our fighting men and women from Vietnam. There is simply no good reason why there is still no flag flying over the apex of the Vietnam Memorial.

This issue is not going to go away, Mr. Speaker. Therefore I would like to submit my remarks and ask my colleagues to join me in cosponsoring this legislation.

TESTIMONY OF HON. ROBERT K. DORNAN

Thank you, Mr. Chairman, and members of the National Capital Memorial Commission. It is a pleasure to be here today as representative of the 38th District of California testifying on behalf of H.R. 662, a bill to direct the Secretary of the Interior to display the U.S. flag at the apex of the Vietnam Veterans Memorial.

Mr. Chairman, just this past weekend here in Washington and yesterday in New York, millions of Americans celebrated the great victory of our armed forces in the war to liberate Kuwait. It was an event that unified almost all Americans. One noteworthy aspect of America's reaction to the Gulf war was that even those who opposed U.S. military action were careful not to make the mistake of holding the military responsible for that policy. Thus we had many professing that they "support the troops but oppose the war." We even experienced a new phenomenon—anti-war protestors waving the American flag.

Yet when it comes to Vietnam, waving the flag—indeed, any patriotic act—is still forbidden. Why? Is it that the dead are unworthy of the flag, or that the flag is unworthy of the dead?

Millions of Americans, myself included, believe that the U.S. effort in Vietnam was indeed the "noble cause" President Ronald Reagan said it was, and I have always felt a sense of shame that our country abandoned the people of Indochina to the horrors of communism. Others have diametric viewpoints. But we should all be able to agree that it is petty to hold the flag responsible for what we as *people* do in its name.

Mr. Chairman, America recently celebrated Memorial Day. On that day each year, people fly flags outside their homes and honor those who have given what President Abraham Lincoln called "the full measure of devotion" by putting flags on the graves of our veterans. At the Vietnam Memorial, every day is a Memorial Day. Shouldn't we do at the Vietnam Memorial what Americans instinctively do every last Monday in May and erect Old Glory at the apex, proudly and permanently?

Mr. Chairman, when a U.S. veteran dies, he or she is entitled to both a grave marker and an American flag, which is normally presented to the widow or mother. However, for countless American servicemen who gave their lives in Vietnam but whose remains will never be returned, the Vietnam Memorial represents their final place of memory, it is their grave market so to speak. (I am talking about those brave aviators lost over water or impenetrable jungle or mountainous areas or those missing-in-action fighting men who disappeared without a trace.) No flag graces the final resting place of these men in the jungles of Indochina or the waters of its coast. That is reason enough to support putting a flag at the apex of the black granite part of the memorial, which, in the words of the designer, was intended as "a memorial to the men and women who *died* (emphasis mine) during the war as a whole."

Now I am sure that we will hear today that the Vietnam Memorial has become one of the most popular attractions in Washington, and that this proves the justness of the design. But it is simply unrealistic, indeed it is ludicrous, to believe that the addition of an American flag, under whose colors these brave men and women fought and died, would somehow take away from the experience or lessen the nation's love for this memorial site.

At other memorials and monuments, the flag occupies a prominent position. The Washington Monument is surrounded by 50 flags. The beautiful Iwo Jima Memorial is centered on raising the flag. The memorial to honor our Korean War veteran, which has yet to break ground, will feature 39 men marching toward a flag. The flag adds to these memorials, it does not detract from them.

We will also no doubt hear that the memorial is a work of art that can't be compromised by the placement of a flag at its apex. However, there is absolutely no reason that a flag cannot be placed in such a way as not to interfere with the aesthetic qualities of the memorial. All I ask is that when the whole memorial is viewed from the front, the flag be visible. The flag does not have to dominate the memorial. Its placement could be done in a very tasteful and innocuous way by setting the flag back a short way, as was originally agreed to by all the parties involved.

One last point, identical legislation in previous congresses has attracted over 260 cosponsors, meaning it has broad bipartisan support. And when Mr. Hodel was Secretary of the Interior, he notified Mo Udall, then Chairman of the Committee on Interior and Insular Affairs, that the administration would not object to my bill.

In sum, Mr. Chairman, the only two reasons to oppose placing a flag at the apex are political or aesthetic. And it is my view that the aesthetic argument is nothing more than a red herring to deflect attention from the true motive, which is political. But as we have seen recently, both hawks and doves can claim the flag as their own. It would be a shame if our brave heroes were not properly honored because it was not the "politically correct" thing to do.

HONORING ALAN M. RASHES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Alan Rashes, who is to receive the Conservative Synagogue of Jamaica Estates' 1991 Distinguished Service Award. He has served as the president of the congregation from 1989–91 and is being honored for his longtime commitment to the synagogue.

Alan is remarkable in that he is involved in many different pursuits, yet is able to balance them and give to each so much time and energy. His career in law has spanned both public service and private practice. Following his graduation from Brooklyn Law School, Alan served on the staff of the New York regional office of the U.S. Securities and Exchange Commission, where he rose to become the chief attorney of the branch of legal interpretations. Currently, he is a partner in the law firm of Salon, Marrow & Dyckman.

While law is his occupation, his true love is his family. He, his wife Elaine and their daughter live in Jamaica Estates. Their son and daughter-in-law, Haran and Lauri, reside in Ann Arbor, MI while their other daughter Rachel currently lives in England.

Alan has been active in all aspects of synagogue life, having served as president of the synagogue Men's Club, and in various other offices, culminating in his election as president in 1989. Alan serves as a role model for our youth. He has done much to further the good work that the synagogue does for its members

and the community as a whole. On this occasion of honoring Alan, I ask my colleagues in the House of Representatives to join me in congratulating him on his good work and in wishing him the best in the future.

A TRIBUTE TO MARY JO POINDEXTER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, on June 18, 1991, a good friend and an outstanding educator, Mary Jo Poindexter, will retire after 34 years with the San Bernardino Unified School District. Mary Jo exemplifies all that is excellent in this Nation's teachers: dedication, humor, creativity, and a commitment to teaching the future leaders of our society.

Mary Jo has carried this commitment to education into her community activities as well. She has served as an elected member of the board of trustees, San Bernardino Community College District, since 1979. She is a past president of the Citrus District Home Economics Association and the San Bernardino chapter of the California Teachers Association.

She has lent her expertise as a member of the California State Commissions on Curriculum and Student Affairs, a member of the State Chancellor's Committee on Telecommunications, and a delegate to the California Association of Community Colleges.

Mary Jo's service to her community has reached beyond our educational institutions; she is a past director of the Mental Health Association, the American Red Cross chapter, the Arrowhead United Way, and past member of the Regional Occupation Program, the League of Women Voters' Board, and the Crafton Hills College Foundation.

The San Bernardino Teachers Association has twice recognized Mary Jo's excellence with the presentation of its Monte Award in 1971 and 1991. The League of Women Voters honored her as a "Citizen of Achievement" in 1980. Of course, Mary Jo has received numerous other awards for her contributions to educational excellence and community service, but I don't know if I have ever taken the time to tell her "thank you" for all that she has brought to our schools and our local community.

So I ask my colleagues to join me on the occasion of Mary Jo's retirement to say, "Thank you. Thank you for your years of service. Thank you for the lessons you have passed on to our students. Thank you for you attention to the curriculm we teach those students. And thank you for your countless hours contributed to our community social service organizations. You have given beyond measure. Thank you."

AMERICA SHOULD AID THE VICTIMS OF MT. PINATUBO, PHILIPPINES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, this morning, in the Philippines, Mount Pinatubo erupted for the first time in 6 centuries. The 4,795-foot volcano sent ash, steam, and smoke 12 miles high. Local rivers which supply water for drinking and irrigation to the residents nearby are choked with hot volcanic mud.

What we do not know, Mr. Speaker, is the fate of the people of the mountainside village of Kakilingan. This morning's reports indicate that at least some residents of Kakilingan escaped. However, within just a few miles are the more populous towns of Botolan and Olongapo, which have not been evacuated. And several hundred American military personnel still inhabit our own Clark Air Base, virtually in the shadow of the erupting volcano.

Though the number of casualties counted thus far is low, any further volcanic activity could bring a horrible disaster.

The first eruption has been terrible in itself. But experts familiar with the geology of the region say Mount Pinatubo threatens to explode again.

Mr. Speaker, the United States has maintained a special relationship with the people of the Philippines since before they gained their independence.

Should Mount Pinatubo indeed further threaten human life, I would ask that this Congress and the administration step forward, provide aid to the people of the region surrounding the volcano, and help coordinate the good work of international relief agencies.

CONGRESSIONAL SALUTE TO VIRGINIA FETTERLY, RETIRING EDUCATOR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ROE. Mr. Speaker, it is with a great deal of pride and admiration that I rise today to salute an outstanding educator who has truly distinguished herself during the last three decades.

I am speaking of Virginia Fetterly of Bloomfield, NJ, who is retiring this year after 28 years as a guiding force in the Bloomfield, NJ, school system in my Eighth Congressional District. Mrs. Fetterly will be honored by the faculty and staff of Brookdale School for a lifetime of achievement with a luncheon on Friday, June 21, 1991.

Mr. Speaker, I know this event will be a source of great pride, not only to Virginia Fetterly herself, but to her devoted family; her husband, her two children, and her six grandchildren.

Mr. Speaker, Virginia Fetterly has maintained such an active life, it is hard to know where to begin when recounting her numerous achievements. She began her teaching career as a substitute grammar school teacher. During the same time period she taught in the mentally handicapped classes at George Morris School in Bloomfield. Later in her career she would use this experience to participate in the main streaming of neurologically impaired children and to teach children who are hearing impaired.

For 15 years, Mrs. Fetterly taught the first grade in the Brookside School and then moved on to the Brookdale School for 10 additional years where she implemented new and innovative programs in math and reading. Her other exceptional accomplishments include her service on the early childhood committee for 6 years and chairwoman for 2 of those years.

Mr. Speaker, first grade is a very important year for children. Their first formal education starts in that year. The excitement experienced by a child in their first year of learning is immeasurable. Virginia has had the pleasure of sharing this experience with hundreds of children; and the children of Bloomfield have had the opportunity to learn from an individual who shares in their learning experience.

Mr. Speaker, it is clear that Virginia Fetterly has continued to strive for excellence in education, whether it be as a teacher or administrator. In this regard, she has served as an important role model and influence on the youth of Bloomfield and of New Jersey, and has truly made her community and State, and our Nation a better place to live.

NEW CAREERS IN EDUCATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. DORNAN of California. Mr. Speaker, I would like to share with you an innovative program developed under the guidance of the Deputy Assistant Secretary of the Army Patricia Hines. She has sheparded an idea to assist former military members who wish to pursue a career in education.

The Army initiative is called "New Careers in Education" and encourages soldiers to take advantage of the 29 States that now have an alternative certification program for teachers. The Army is working closely with the U.S. Department of Education to provide soldiers with the information they will need to obtain a teaching certificate through one of these programs.

"By opening up the teaching profession to former Army personnel, we hope to increase competitiveness and thereby strengthen the quality of teachers," said Mr. John Roddy, a senior policy analyst with the U.S. Department of Education. "The Army's program in the education program mesh nicely."

This joint effort provides information on teaching as a new career to service personnel transitioning to civilian life. By calling a toll free number in the continental United States (1–800–227–LEAD) and an ETS number in Germany (379–6059/6065), and an autovon number in Korea (738–7336), soldiers can have a packet of information mailed to them on how

to enter the teaching profession. The packet also contains information on a free placement service.

The Army's Assistant Secretary for Manpower and Reserve Affairs, Mr. G. Kim Wincup said:

The Army's program, new Careers in Education, will not only benefit the Army but the Nation at large by enhancing the quality of our country's teachers. We have installed special telephone lines in Korea, Germany, and the United States which will give, for the first time, our soldiers direct access to State-by-State information regarding teacher certification.

The two commanders who have established the first two autovon lines reacted enthusiastically to this initiative. Gen. Robert W. RisCassi, commander, U.S. forces, Korea, said:

This very important initiative will open up the teaching profession to outgoing members of the military, and it deserves our full suport. Our soldiers are teachers!

In Germany, Gen. Crosbie E. Saint, commander in chief, U.S. Army Europe and 7th Army, said:

Our soldiers are highly qualified and competent. In fact, we have the most educated force in the history of the Army. I believe, just as soldiers served the nation in uniform, they have great potential to serve as teachers in our nation's schools.

Mr. Speaker, I commend Mr. Wincup, General Saint, General RisCassi and Mrs. Hines on their innovative approach and encourage all our colleagues to support their effort.

HONORING THE 40TH ANNIVERSARY OF LOCAL 463

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Local 463 of the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers [IUE], AFL–CIO, which is celebrating its 40th anniversary of its founding.

Local No. 463 was started in 1951 by James Trenz, a business agent of the United Electrical, Radio and Machine Workers of America and other concerned trade unionists who sought to combat Communist infiltration into the labor movement. Within 3 years of its formation, local No. 463 tripled its strength by welcoming into its membership other unorganized electronic, machine and sheet metal workers from New York metropolitan area shops. By the mid-1950's this local inaugurated the IUE's first amalgamated-type pension plan with retirement benefits for employees of small firms, severance pay for workers leaving a shop before they have vested and portable pension credits for members moving within the system. Since the 1960's, the local has gained a comprehensive health package. It has also launched successful efforts on behalf of the United Negro College Fund, Deborah Hospital, the Boy Scouts of America and many other nonprofit and human rights organizations.

The mission of this union is personified by the multifaceted career of its dedicated president, James Trenz, who has achieved a national reputation as the Secretary of Labor's appointee to the Minimum Wage Board. He has also served as a member of the New York City Central Labor Council's Executive Board and chairman of its Amalgamated Locals Conference Board.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in recognizing the contributions of local No. 463 to the American Labor movement and to the welfare of thousands of union members and their families over the past four decades.

RADIO FREE EUROPE/RADIO LIBERTY NOMINATED FOR NOBEL PEACE PRIZE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. FASCELL. Mr. Speaker, for decades the U.S. Congress has supported the broadcasting activities of Radio Free Europe and Radio Liberty. These outstanding international broadcasters effectively penetrated the Iron Curtain which Communist dictators attempted to impose on the access of their citizens to outside news and information. Over these decades thousands of dedicated employees played a quiet but important role in making possible the democratic revolutions which have recently swept Eastern Europe and the Soviet Union. When the history of this era is written, I am confident that these U.S. broadcasting services will receive the great credit they so richly deserve.

As the dictatorships have crumbled the democratic leaders who have emerged have paid tribute to Radio Liberty and Radio Free Europe for the support they gave through so many dark years. Today I would like to call to the attention of my colleagues one such tribute to Radio Free Europe/Radio Liberty by Lennart Meri, the Minister of Foreign Affairs of the Republic of Estonia, whose government is still struggling to assure liberty for its people. Following is the text of a communication sent by Minister Meri to the Nobel Committee.

MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF ESTONIA,
January 29, 1991.

Mr. GEIR LUNDESTAD,
Secretary, the Norwegian Nobel Committee, Norwegian Nobel Institute, Oslo, Norway.

DEAR SIR: I would be most grateful for your assistance in conveying to the members of the Norwegian Nobel Committee my nomination of Radio Free Europe/Radio Liberty, Inc. for the Nobel Peace Prize this year. This honor would be of lasting benefit to the cause of democracy in the Baltic states and the neighboring region.

I trust that you and the Committee will understand that I and my government work under difficult circumstances, with very limited staff and other resources. I have therefore requested the assistance of RFE/RL, Inc. in providing me with documentation and background information, which I hereby submit with my nomination.

I take the liberty of including various statements about these radio stations made by President Havel, President Walesa, Prime Minister Antall, President Zhelev and other public figures.

Please let me know if any additional information is required.

Sincerely,

LENNART MERI,
Minister of Foreign Affairs.

MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF ESTONIA,
January 29, 1991.

To the Norwegian Nobel Committee.

DEAR SIRS: I, Lennart Meri, as the Minister of Foreign Affairs of the democratically elected government of the Republic of Estonia, recommend and appeal to the Norwegian Nobel Committee to confer this year upon Radio Free Europe/Radio Liberty, Inc., of the United States of America, the Nobel Peace Prize.

Radio Free Europe and Radio Liberty are chartered and supported by the United States Congress as a private, non-profit, nonpartisan corporation whose purpose is to encourage and assist the peaceful evolution of democracy in the Baltic states, the Soviet Union and the nations of Eastern and Central Europe dominated in the post-war period by the Soviet Union.

There is abundant evidence—including statements by the freely elected leaders of Czechoslovakia, Hungary, Poland and Bulgaria—that Radio Free Europe and Radio Liberty have made, and continue to make, a unique contribution to the rebirth of democracy in our region of the world, upon which lasting peace depends. It is my firm belief that this contribution, supported by the spirit and the treasure of the American people, conforms to the ideals of Alfred Nobel and is of a magnitude fully deserving of so high an honor as the Nobel Peace Prize.

RFE and RL broadcast a thousand hours of programs each week in 23 languages to Estonia, Latvia, Lithuania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union. By this measure alone, RFE And RL are the predominant Western broadcasters to this region. More important, these radio stations are the predominant Western carriers and preservers of the democratic values that have inspired the peaceful revolutions of 1989–90.

It is well known that the tidal wave of democracy that has begun to move through our region of the world reflects the convergence of many complex political and economic forces. Individual personalities have played important roles. But the fundamental forces behind this inexorable and historic movement are the aspirations for freedom and the democratic values of millions of ordinary people. I believe that, more than any other entity, Radio Free Europe and Radio Liberty have helped to keep these aspirations and these values alive through dark decades of repression.

For 40 years, RFE and RL have broadcast news, analysis, commentary, literature, religious services and cultural and historical programs. Through their programs, which for years struggled against illegal jamming by Communist governments, these stations have helped immensely to:

Spread and strengthen democratic ideas and values and to build a sense of common purpose among the peoples of the Baltic states, the Soviet Union and Eastern and Central Europe. RFE and RL continue to play a vital role in explaining the history and aspirations of the Baltic nations to all the peoples of the Soviet Union.

Preserve the histories and cultures and religious faiths of whole nations, who would

otherwise have known their national heritage only through the distorting prism of a particular ideology.

Promote free expression through uncensored arts and literature, independent of state control.

Provide a lifeline of information and moral support between the peoples of our region and Western civilization.

Moreover, RFE and RL have pursued these high aims in accordance with admirable standards of fairness, moderation and civility. They have consistently encouraged nations to reclaim their sovereignty and independence by peaceful means.

In doing so, they are helping to create the peaceful revolutions we have witnessed in Eastern and Central Europe and the Baltic states; and they are exerting a powerful influence on behalf of democracy in the Soviet Union.

Although they are supported by the American government and the Congress, RFE and RL are unique among Western broadcasters in their purpose and their orientation. RFE and RL have served not as the voice of a foreign government, but as surrogate or alternative home media for peoples who have been denied the basic human right of free expression. Millions of listeners consider these stations to be their own, giving voice to their own aspirations for freedom and democracy.

As such, these radio stations have constituted—and continue to do so—a form of direct assistance to the Baltic states and other listening nations as we seek, against great odds, to build democratic institutions and the rule of law, and to secure our lasting independence.

Today, RFE and RL are helping to build a foundation of understanding for the immense changes that must take place in our societies during a historic transition to stable democracies and market economies. They contribute to regional harmony and understanding by helping to move news and other information among the countries of the region. They are an important force for the peaceful reintegration of Europe. They provide us with a model for serious, thoughtful journalism as it is practiced in democratic societies.

I and many of my fellow Estonians wish to honor Radio Free Europe and Radio Liberty and the people of the United States for 40 years of work in helping us prepare for the restoration of our democracy, and we wish to encourage them to continue their important work in the years ahead.

This nomination is mine alone. But I have reason to believe that others, including President Vaclav Havel of Czechoslovakia, President Lech Walesa of Poland, Prime Minister Jozsef Antall of Hungary, and President Zhelyu Zhelev of Bulgaria, share my attitude toward the broadcasts that have also served their people.

I appeal to the Nobel Committee to consider this nomiation and wish you the greatest wisdom in your deliberations.

Sincerely,

LENNART MERI,
Minister of Foreign Affairs.

DENIAL OF TAX INCENTIVES FOR RUNAWAY PLANTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. STARK. Mr. Speaker, today I am introducing a bill to deny section 936 tax credits for income attributable to a runaway plant.

I am extremely concerned that our income tax laws are encouraging the artificial migration of jobs to Puerto Rico at the expense of established industrial communities.

Section 936 is a tax incentive to assist economic development in Puerto Rico and the possessions. While I do not doubt that Puerto Rico could use the economic boost, I object to any assistance given at the expense of mainland jobs.

Under current law, a domestic company can set up a 936 corporation to operate in Puerto Rico or the possessions. Income earned by the 936 corporation qualifies for section 936 tax credit which essentially makes the income free from U.S. income tax. In addition, qualified possessions corporations are typically granted full or partial exemption from Puerto Rico income tax under Puerto Rican law if a company states that there will be no mainland job dislocation.

By providing a credit against tax for income earned in Puerto Rico and the possessions, the tax system has lured many major stateside corporations to Puerto Rico. These 936 companies provide direct employment for about 100,000 workers on the island.

The 936 credit is a substantial incentive. According to the most recent Treasury Department report on the operation and effect of the possessions corporation system of taxation, March 1989, the U.S. tax benefits per employee averaged $18,523 per employee for all manufacturing industries in 1983. Although the possessions corporations' U.S. tax benefits vary substantially by industry, the pharmaceutical industry hit the jackpot with $57,761 in tax benefits per employee in 1983.

While the Treasury study does not take into account the effect of the Tax Reform Act of 1986 which reduced some of the tax benefit, the overall cost of the incentive remains very high. The Joint Committee on Taxation estimated the revenue loss of section 936 to be $2.6 billion a year.

A tax incentive this substantial works. U.S. mainland jobs have moved to Puerto Rico. A study entitled "The Impact of Section 936 on Manufacturing Jobs in the Mainland United States: Case Studies," prepared by the Midwest Center of Labor Research, documents thousands of mainland jobs which have been transferred to Puerto Rico; 25 cases of plant closings and major lay-offs were reviewed involving 21 different companies; 13 cases involve a direct and complete transfer of work from the mainland to Puerto Rico. The remainder of cases in the study shows a transfer of jobs to multiple locations including Puerto Rico.

It's time to refine our policy. Mainland workers should not be forced to subsidize Puerto Rico with their jobs as well as their tax dollars. This bill denies the possessions tax credit for any income attributable to a runaway plant.

Under the bill, a 936 company must file a request for 936 status with the Secretary of Treasury prior to commencing operations in Puerto Rico or substantially expanding its operations in Puerto Rico. The Secretary must determine that the operations at the facility will not have a substantial adverse effect on the level of employment at a mainland plant operated by the electing corporation or a related party or supplier.

To assure that the Secretary has adequate information on which to base his decision, the bill provides that notice of each request for 936 status be published in the Federal Register, opportunity for public comment must be provided and notice of the Secretary's determination in each case shall be published in the Federal Register.

In addition, the background file relating to each determination shall be made available to the public.

The Secretary shall revoke the 936 credit at any time within three years of commencement—or expansion—of operations if the Secretary determines that, based on facts and circumstances that become known after the original determination, there is a substantial adverse effect on mainland employment. The effect of this revocation is to treat the runaway plant income as income of the corporation's U.S. shareholders.

The Secretary shall revoke the 936 credit of a corporation at any time there is a misrepresentation or a failure to disclose critical information by the taxpayer in its request for 936 status.

The bill is prospective. It applies to new 936 companies or expansions of current 936 companies after June 12, 1991.

A technical explanation prepared by the Joint Committee on Taxation and the text of the bill follows:

TECHNICAL DESCRIPTION OF H.R. 2632, TO DENY THE BENEFITS OF THE PUERTO RICO AND POSSESSION TAX CREDIT IN THE CASE OF RUNAWAY PLANTS

PRESENT LAW

A domestic corporation may eliminate its U.S. tax on income associated with Puerto Rico or other U.S. possessions by means of the Puerto Rico and possession tax credit under Code section 936. Most so-called section 936 corporations operate in Puerto Rico. In such a case, the income of the corporation typically benefits not only from a U.S. corporate tax exemption through the section 936 credit and the dividends received deduction afforded to its parent U.S. corporation, but also from Puerto Rican tax reduction or elimination under a local law such as the Puerto Rico Tax Incentives Act of 1987.

In order to benefit from the section 936 credit, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 75 percent of its gross income from the active conduct of a trade or business within Puerto Rcio or another U.S. possession during the preceding three years. Second, at least 80 percent of the gross income of the corporation must be derived from sources within Puerto Rico or other possession during that same three-year period. A corporation which satisfies these requirements and elects the benefits of section 936 is generally referred to as a section 936 corporation.

The section 936 credit eliminates U.S. tax on income from the active conduct of a trade or business within Puerto Rico or another possession. It also eliminates U.S. tax on qualified possession source investment income. In addition, the credit may be used to eliminate U.S. tax on up to 50 percent of combined taxable income of a section 936 corporation and its U.S. affiliates attributable to intangible property licensed to the section 936 corporation.

EXPLANATION OF PROVISION

In general

The bill eliminates the section 936 credit for income attributable to new or newly expanded operations at Puerto Rican or other possession facilities unless those operations are determined by the Secretary of the Treasury not to have a substantial adverse effect on employment at U.S. facilities. The bill gives the Secretary a window in which to make that determination (or revoke a previously made determination), starting shortly after the commencement of the local tax incentive application process, and ending three years after commencement of operations. In order to claim section 936 credits for income from expanded operations at an existing facility, a new determination is required when employment at the facility increases by over 10 percent in one year or a new local tax incentive procedure is commenced.

Finally, the bill provides for some degree of public input into the process by which the Secretary would allow section 936 credits to shelter income from new facilities and new expansions of existing facilities. The bill further provides that the results of that process are also to be made open to the public.

Taxation of runaway plant income

The bill provides that income attributable to a disqualified facility (referred to as "runaway plant income") generally is not income of the section 936 corporation but is instead the income of the corporation's U.S. shareholders, with proration of income on the basis of shareholdings. Moreover, if by not treating such income as income of the section 936 corporation the corporation would fail either the 80-percent possession source test or the 75-percent active trade or business test, the corporation will be treated as meeting those tests if it makes a post year-end distribution to the extent necessary to bring its possession source and possession business income to the threshold proportions of its other retained income.

A different rule applies to the extent that shareholders of the section 936 corporation are foreign persons or are not subject to tax on such income. In such a case, the pro rata portion of the runaway plant income that would have been allocated to such persons (if they had been U.S. persons subject to tax on such income) is instead treated (for the purposes of determining the tax liability of the section 936 corporation) as U.S. source income of the section 936 corporation. The section 936 credit cannot offset this runaway plant income. However, such runaway plant income does not enter into the calculation of the 80-percent possession source test or the 75-percent active trade or business test. In summary, the section 936 corporation will be subject to U.S. income tax on runaway plant income that is not allocated to shareholders (because they are foreign or tax-exempt), but such income will not operate to disqualify the corporation as a section 936 corporation.

Determinations that no substantial adverse effect will result

Under the bill, a disqualified facility is a facility at which operations commence with respect to the section 936 corporation after June 12, 1991 unless, among other things, the Secretary of the Treasury determines that operations at the facility will not result in a substantial adverse effect on the level of employment at a facility located in the United States. Impact on a facility is relevant for this purpose if the facility is either operated by the section 936 corporation or a related person, or if it is operated by any other person and an adverse effect arises from a change in a supplier relationship to the electing corporation or a person related to the section 936 corporation. Thus, for example, the bill requires the Treasury to treat a facility located in Puerto Rico as disqualified if its operation is associated with a substantial adverse effect on employment at a U.S. facility that previously made products for or on behalf of an entity under common control with the section 936 corporation.

For purposes of the bill, a section 936 corporation generally is treated as related to another person if such persons are related parties for purposes of sections 267(b) or 707(b)(1) or members of the same controlled group of corporations (as defined in section 1563(a)) except that the bill substitutes a greater than 10 percent test for the 50 percent or 80 percent tests of these sections and includes otherwise excluded foreign affiliates.

In order to avoid disqualified status for a facility, the section 936 corporation must also timely file a request with the Secretary for a determination of the absence of a substantial adverse effect described above. The request must be filed within 90 days after the date on which an application is submitted to Puerto Rico or another possession for local tax incentives for the facility, or (if earlier) at least one year before the date on which operations at the facility commence. The Treasury may, however, treat a late request as timely filed if it determines that reasonable cause for late filing existed.

If Treasury issues a favorable determination regarding the status of a facility, there are two situations under the bill in which the determination will be revoked retroactively. First, the Treasury must revoke the determination at any time within three years of commencement of operations at the facility if, on the basis of the facts and circumstances then known, Treasury determines that no longer would operations at the facility not result in a substantial adverse effect on the level of employment at relevant facilities located in the United States. Second, Treasury must revoke a determination at any time if in connection with the request for the determination, there was a misrepresentation with respect to (or a failure to disclose) any material information by the section 936 corporation or a related person. Either type of revocation applies as if the original determination had never been made. Thus, if a revocation is made, all prior income attributable to the facility is considered runaway plant income.

Expansions of existing facilities

Under the bill, certain substantial increases in employment at existing facilities are themselves treated as separate facilities at which operations with respect to the electing corporation commenced as of the date of the increase. Thus, income attributable to such an increase would be considered runaway plant income, unless a timely application for a U.S. facility impact determination is filed and a favorable determination is made and not revoked.

A substantial increase in employment at a facility occurs, for this purpose, on the last day of a payroll period when the average number of employees performing services at the facility for that period exceeds 110 percent of the average number of employees performing services at the facility during the corresponding payroll period in the prior year. Appropriate adjustments in the application of this rule are to be made in the case of employees not performing services on a full-time basis.

In addition, there is deemed to be a substantial increase for this purpose if there is an expansion in the facility, or the operations at the facility, with respect to which a separate or supplemental application or other request relating to tax incentives for such expansion is made to governmental authorities of the possession.

Public disclosure of the determination process

If a section 936 corporation files a request for a determination that a facility is not to be treated as disqualified, the bill requires that the Secretary publish in the Federal Register a notification of the request. The Secretary is not to make any such determination unless he allows an opportunity for public comment on the request. This requirement is intended to be consistent with the notice and comment procedures of the Administrative Procedures Act, as amended (5 U.S.C. sec. 553). The bill does not require that the Secretary allow an opportunity for a hearing, and the determination is not required to be made on the record within the meaning of the Administrative Procedures Act (*cf.* 5 U.S.C. sec. 554).

If and when a determination is issued, notification of it must be published in the Federal Register. The text of the determination, and any background file document relating to the determination, must be open to public inspection. Before making this material public, the Secretary will delete the types of information relating to national security, trade secrets, and certain other matters that would normally be deleted from the published version of a private ruling. However, there will not be deleted the names, addresses, and other identifying details of the section 936 corporation and of any other person identified in the determination or a background file document.

EFFECTIVE DATE

The bill generally applies to taxable years ending after June 12, 1991. As described above, however, it does not apply to facilities that commenced operations with respect to the section 936 corporation before June 13, 1991, unless the facility is subject to an expansion or employment level increase after June 12, 1991 that is treated as a separate facility as described above. In addition, the time for filing a request for a determination that a facility will not have a substantial adverse effect on U.S. facilities will in no event expire before the date 90 days after enactment of the bill.

H.R. 2632

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

SECTION 1. LIMITATION ON PUERTO RICO AND POSSESSION TAX CREDIT.

(a) GENERAL RULE.—Section 936 of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(i) DENIAL OF CREDIT FOR INCOME ATTRIBUTABLE TO RUNAWAY PLANTS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The runaway plant income of a corporation electing the application of this section for any taxable year (hereinafter in this subsection referred to as the 'electing corporation') shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—The taxable income of an electing corporation shall be reduced by the amount which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A).

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person, or

"(ii) who is not subject to tax under this title on runaway plant income which would be allocated to such shareholder (but for this subparagraph).

"(B) TREATMENT OF NONALLOCATED RUNAWAY PLANT INCOME.—For purposes of this subtitle, runaway plant income of an electing corporation which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be treated as taxable income from sources within the United States.

"(3) EXCLUSION OF INCOME FOR QUALIFICATION TESTS.—Any gross income taken into account in determining the amount of the runaway plant income of any electing corporation shall not be taken into account for purposes of subsection (a)(2).

"(4) RUNAWAY PLANT INCOME.—For purposes of this subsection, the term 'runaway plant income' means the portion of the taxable income of the electing corporation which is attributable to a disqualified facility.

"(5) DISQUALIFIED FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified facility' means any facility at which operations are commenced with respect to the electing corporation after June 12, 1991 unless—

"(i) the Secretary determines that operations at such facility—

"(I) will not result in a substantial adverse effect on the level of employment at any facility in the United States operated by the electing corporation or a person related to the electing corporation, and

"(II) will not result in such an effect with respect to any other facility in the United States on account of changes in a supplier relationship to the electing corporation or a person related to the electing corporation, and

"(ii) the electing corporation files a request with the Secretary for a determination under clause (i) on or before the earlier of—

"(I) the day 90 days after the date on which an application is submitted to the possession for tax incentives for such facility, or

"(II) the day 1 year before the date on which operations at such facility commence.

The Secretary may treat a request not filed before the time required under clause (ii) as timely filed if the Secretary determines that there was reasonable cause for not filing the request before the time required.

"(B) CERTAIN REVOCATIONS REQUIRED.—

"(i) IN GENERAL.—The Secretary shall revoke a determination under subparagraph (A)(i) at any time before the close of the 3-year period beginning on the date on which operations at the facility commenced if the Secretary determines that, on the basis of the facts and circumstances then known, the requirements of subparagraph (A)(i) are not satisfied.

"(ii) MISREPRESENTATIONS, ETC.—The Secretary shall, at any time, revoke a determination under subparagraph (A)(i) if, in connection with the request for such determination, there was a misrepresentation with respect to (or a failure to disclose) any material information by the electing corporation or a related person.

"(iii) REVOCATIONS RETROACTIVE.—If any determination is revoked under this subparagraph, this subsection (other than paragraph (8) thereof) shall be applied as if such determination had never been made.

"(C) OPPORTUNITY FOR PUBLIC COMMENT.—No determination may be made under subparagraph (A)(i) unless the Secretary allows an opportunity for public comment on the request for such determination.

"(6) EXPANSIONS TREATED AS SEPARATE FACILITIES.—

"(A) IN GENERAL.—For purposes of this subsection, any substantial increase in employment at a facility shall be treated as a separate facility at which operations are commenced with respect to the electing corporation as of the date of such increase.

"(B) SUBSTANTIAL INCREASE IN EMPLOYMENT.—For purposes of subparagraph (A), there shall be deemed to be a substantial increase in employment as of any day at any facility if—

"(i) such day is the last day of a payroll period and the average number of employees performing services at such facility during such period exceeds 110 percent of the average number of employees performing services at such facility during the corresponding payroll period in the preceding calendar year, or

"(ii) there is an expansion in such facility or the operations at such facility with respect to which a separate or supplemental application or other request relating to tax incentives for such expansion is made to governmental authorities of the possession.

Appropriate adjustments in the application of clause (i) shall be made in the case of employees not performing services on a full-time basis.

"(7) SPECIAL RULES.—

"(A) DISTRIBUTIONS TO MEET QUALIFICATION STANDARDS.—Rules similar to the rules of subsection (h)(4) shall apply for purposes of this subsection.

"(B) RELATED PERSON.—For purposes of this subsection, the rules of subparagraphs (D) and (E) of subsection (h)(3) shall apply in determining whether any person is related to the electing corporation.

"(8) PUBLIC DISCLOSURE.—

"(A) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register—

"(i) a notification of each request for a determination under paragraph (5)(A)(i), and

"(ii) a notification of the Secretary's determination in the case of each such request.

"(B) PUBLIC INSPECTION OF DETERMINATION.—

"(i) IN GENERAL.—Notwithstanding section 6103, the text of any determination made by the Secretary under paragraph (5)(A)(i) and any background file document relating to such determination shall be open to public inspection at such place as the Secretary may prescribe.

"(ii) EXEMPTIONS FROM DISCLOSURE.—Rules similar to the rules of section 6110(c) (other than paragraph (1) thereof) shall apply for purposes of clause (i).

"(iii) BACKGROUND FILE DOCUMENT.—For purposes of this subparagraph, the term 'background file document' has the meaning given such term by section 6110(b)(2) determined by treating the determination under paragraph (2) as a written determination."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after June 12, 1991.

(2) TIME FOR FILING REQUEST.—The time for filing a request under section 936(i)(5)(A)(ii) shall in no event expire before the date 90 days after the date of the enactment of this Act.

PUERTO RICAN WORKERS SUPPORT RUNAWAY PLANT LEGISLATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. STARK. Mr. Speaker, today I have introduced legislation to eliminate section 936 tax credits for income earned in a runaway plant. The Tax Code must not provide tax incentives to take jobs from one group of American workers to give them to another group of American workers.

Workers throughout America unite when it comes to plant closures and layoffs.

I would like to share with my colleagues the following letter:

CONCILIO GENERAL DE TRABAJADORES,
April 24, 1991, Rio Piedras, PR.

Mr. JOSEPH M. MISBRENER,
President, OCAW,
Denver, CO.

DEAR BROTHER: On behalf of Concilio General of Trabajadores (CGT) and its eight affiliated unions, which represent 25,000 workers in Puerto Rico, receive our solidarity in your struggle against companies like American Home Products who have destroyed jobs in the U.S. in order to relocate in Puerto Rico for the purpose of avoiding the payment of taxes in both of our countries.

Concilio General of Trabajadores fully supports the efforts of the OCAW and other U.S. unions to obtain legislation to amend section 936 of the U.S. Internal Revenue Code, so that any company would be denied the benefits of 936 where such would result in the relocation of existing work and job losses to workers in the United States.

Enclosed you will find copy of our latest publications, where we denounce the realities about the operations and excessive earnings of these companies in Puerto Rico.

In solidarity,

LUIS AMAURI SUAREZ ZAYAS,
Secretary General, CGT.

TRIBUTE TO JOSEF MESTENHAUSER

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SABO. Mr. Speaker, I would like to take this opportunity to honor Dr. Josef Mestenhauser, a constituent of mine, who has recently received his law degree from Charles University in Prague, Czechoslovakia.

Dr. Mestenhauser's story is one of those truly amazing stories that came about as the Communist stranglehold on Eastern Europe was broken.

It began in 1948 when Josef Mestenhauser was a 22-year-old law student in Czechoslovakia, destined for a bright future. He was a leader in both his law student association and the Czechoslovak National Student Association, and was looking forward to taking a job waiting for him in the foreign service. As an activist in the Nationalist Party, his name was on the ballot for the parlimentary elections scheduled for that spring.

Unfortunately, those elections never came. Instead, just a few months before he was scheduled to receive his degree, Josef was arrested, expelled from school and his entire family placed on the black list. Because he was a student leader and vocal anti-Communist, the new Communist government had labeled him an "enemy of the people."

Luckily, he was able to escape to the West. With the help of an international student organization, he came to the United States to attend a small college in Washington. He then moved to Minnesota to pursue his doctorate in political science and has been living there, in my district, ever since. Dr. Mestenhauser became a U.S. citizen, married, had three children, and is now a professor and director of the Office of International Education at the University of Minnesota.

Meanwhile, as Dr. Mestenhauser was building his new life in America, the Communist government in Czechoslovakia tried him in absentia and sentenced him to 25 years in prison for being an "enemy of the people," a sentence that meant he could never go home.

But the last few years have brought about amazing changes in Eastern Europe. About a year ago, Dr. Mestenhauser's brother called from Czechoslovakia to tell him that the new Czech Government had erased his crimes. This spring he was informed that the new Government was looking for him—they wanted to present him with the degree he had been denied years before.

So, on April 26, 1991—43 years after his education was so abruptly terminated—Dr. Mestenhauser traveled back to Prague and received his law degree from Charles University.

Although Dr. Mestenhauser was happy to have finally received his long-denied degree, his visit home raised deep concerns about the damage done to his native land and his former countrymen by so many years of Communist rule.

Moved by this concern and inspired by Alexander Dubcek's recent visit to Minnesota, Dr. Mestenhauser has joined with others to form the Minnesota-Czechoslovakia Center, committed to helping Czechoslovakia build free institutions and democratize its society.

Mr. Speaker, I would like to congratulate Dr. Mestenhauser on his long-awaited recognition and well-deserved vindication. His new efforts represent an important endeavor on behalf of Czechoslovakian democracy. These efforts should result in great rewards for the Americans involved as well as for Czechoslovakia. I know that every Member of this body joins me in wishing him the greatest success.

REPEAL OF THE BOAT EXCISE TAX IS A JOBS ISSUE, NOT A PARTISAN ISSUE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SHAW. Mr. Speaker, today I testified before the Senate Subcommittee on Taxation in support of S. 649, a bill to repeal the excise tax on boats costing over $100,000. I have a strong interest in the fate of this legislation, as I am the sponsor of companion legislation to S. 649 in the House—H.R. 951. My bill currently enjoys the support of 102 House Members, as well as a substantial number of Ways and Means members, the committee I serve on.

As my colleagues may recall, this 10 percent luxury excise tax on boats costing over $100,000 passed last October, as part of the 1990 Budget Reconciliation Act. This tax was drafted and passed by Congress in haste and in virtual secrecy. There was no research about its impact and no chance for comment by the public, accountants, or tax lawyers who might have pointed out flawed assumptions or other pitfalls of this tax. The marine manufacturers did not testify before Congress and neither did the American worker. Ideally, tax legislation should be prepared during an extended legislative process that involves public hearings and intense analysis. Since Congress was in a frenzy to "soak the rich" and adjourn last year, no analysis was done, and the result is a destructive tax.

If Congress had bothered to consult with the experts, we would have been told that the marine industry declined 42 percent from 1988–90. Anyone with common sense knows that levying a tax when an industry is already hurting is not wise policy. But Congress was not interested in wise tax policy; Congress was interested in making a political statement—soak the rich. Now that the statement has been made, I say let us move on to correct this mistake. Certainly the Senate hearing held today is a step in the right direction, and I commend the chairman, Senator DAVID BOREN, for holding it.

Our Nation's marine industry is an important generator of wealth for our Nation. In 1990, $13.7 billion was spent at the retail level alone on boats and related expenditures. Over 486,000 people are employed in the U.S. boating industry—twice as many as our domestic steel industry. Many of these workers are skilled craftsmen, as boat building is very labor intensive. Hence, when a boat building job disappears or goes overseas, we waste the talents of an American artisan. According to reliable estimates, over 19,000 of these skilled, blue collar workers will lose their jobs primarily because of this 10 percent excise tax.

The boating industry also helps reduce our trade deficit. The industry registered a $249 million trade surplus in 1989, and a $616 million trade surplus in 1990. Import penetration in the U.S. market was under 5 percent in 1989. The reason our marine industry dominates the global boating market is simply because we produce the highest quality boats. An American manufactured boat is synonymous with quality and reliability. I wish we could say that about some of the other durable items this country produces. Some observers contend that the Japanese and Germans see our slumping domestic marine industry as the perfect opening to increase their market share in this country, just as they did with automobiles, electronics, et cetera. I view this threat as yet another unforeseen consequence of this onerous tax.

Some skeptics of this repeal legislation contend that the reason our marine industry is in a depression is solely because of the recession and that the excise tax has had little or no effect on the industry. This reasoning is patently ridiculous. First, and perhaps most important, we can look to other nations which instituted a similar tax and learn from the folly of their ways.

For example, lawmakers in Britain and Italy in the 1970's found that boat sales decreased by double the percentage amount of the excise taxes they levied, and tax revenues decreased when they implemented an excise tax on boats. Hence, from the experience in Britain and Italy we have reason to expect a 20 percent additional decline based on the 10 percent tax in this country. Subsequently, Britain repealed its tax and Italy reduced its tax. Unfortunately for those countries, they devastated their marine industries in the process.

Second, people can easily avoid this tax. They can just not buy a boat. Instead they can spend the money on an European vacation or jacuzzi, or some other big-ticket luxury item which Congress does not presently tax. Another easy way to avoid the tax is by buying a used boat. They can also buy their new boats overseas and just "visit" the United States. This is already happening in the Bahamas. In response to Congress passing the 10 percent tax, the Bahamas in turn reduced their boat taxes to less than 1 percent of a vessel's value.

This move stands to hurt my home State of Florida the most, simply because of the popularity of boating in my State and Florida's proximity to the Bahamas. As the Bahamas are only 50 miles off the coast of Fort Lauderdale, it now makes sense to buy and slip a boat in the Bahamas and use it in the States. This move will lure American boaters, draw boats sales and service, as well as tourism to the Bahamas, and in turn, create jobs for the Bahamas at our expense.

Interestingly, this is not the first time Congress has levied a 10-percent excise tax on boats and, hopefully, not the last time it will repeal such a tax. Congress levied a 10-percent tax on boats to raise revenue for World War I, and then repealed the tax in 1924. In the re-

port language of the repeal bill—H.R. 6715, Report No. 179, 68th Congress—Congress gave its reason for repealing the tax:

The tax upon the sale of yachts is a great burden to yacht builders of this country, since it forces persons to purchase yachts outside the United States from foreign manufacturers in order to avoid the tax.

This scenario is remarkably similar to what is happening today with the Bahamas.

Finally, boats are a very elastic product. Any increase in price markedly impacts sales—and the price of boats and boating went up dramatically last year, thanks to Congress. I can understand the boaters feeling they were singled out by the Congress last year. Congress not only levied this 10-percent excise tax on boats but also a user fee for all registered boats over 17 feet, new fuel taxes, and a $35 FCC radio fee. Is it any wonder customers are staying away from buying new boats in order to avoid paying any more taxes to the Federal Government?

Of course, the stated reason for this tax was to help reduce our huge Federal deficit. The boat tax was projected to raise $148 million over a 5-year period, according to the Joint Committee on Taxation. In fact, this fiscal year, the tax is expected to raise a paltry $3 million. The tax is then projected to raise $7 million in fiscal year 1992, $42 million in fiscal year 1993, $46 million in fiscal year 1994, and $50 million in fiscal year 1995. Although I admire the often useful work of the Joint Committee on Taxation, their projections are at best an informed guess, and at worst a shot in the dark. From the anecdotal evidence I have seen, no one is selling boats and, therefore, no one is paying the tax. You cannot tax something that does not exist. In the long run, I believe this tax will be a revenue loser.

I contend that this tax will cost the Government more money than it ever hopes to collect because of the hidden cost of the tax. Specifically, I refer to the cost of enforcement by the IRS, the cost of compliance by retailers —higher costs in time, extra paperwork, and perhaps lost business—revenue losses from reduced tariff collections, increased unemployment benefits, and the general "ripple effect" when an industry lays off its workers. I believe that when you add up all these factors, this tax will be a revenue loser.

I am not alone in my assessment. According to the New York Times—January 22, 1991—some tax experts and business leaders say the overall luxury tax may cost retailers and the IRS more to collect than the revenues it brings in. Peter Scott, former general counsel to the IRS, has stated, "The revenue gains from the luxury tax are illusory; businesses and the IRS will spend two or three times more to comply with and collect it than the small amount of revenue it raises."

One more point: Before this tax was passed, the National Marine Manufacturers Association estimated that 8,000 American workers would lose their jobs because of it. That figure has since been revised upward to 19,000. Those 8,000 marine workers were expected to pay $30 million in Federal income tax this year—10 times what the Federal Government expected to raise from this tax. Of course, the Federal Government can now expect to lose even more Federal income tax revenue since 19,000, instead of 8,000, marine workers are projected to lose their jobs.

The evidence is overwhelming: The boat tax is an unmitigated failure and a plague the Congress has visited upon an important American-dominated industry. Instead of raising revenue, it loses it. Instead of making rich people pay more taxes, it throws people out of work. It invites international predatory competitors to prey on our weakened market. It destroys small businesses, of which the majority of boat manufacturers are.

Mr. Speaker, Congress made a mistake in passing this tax. Let us not let class and political warfare disguised as deficit reduction dictate the destruction of jobs, of peoples' futures, and the vitality of the boat building industry in America. This legislation in not about giving a tax break to someone rich who wants to own a yacht; it is about American jobs, pure and simple. Let us treat it as such.

TRADING CAREER FOR NATIONAL DIALOGUE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues a column from the Washington Post by Judy Mann. The column illustrates the seriousness of sexual harassment and discrimination against women in their workplaces. Until we understand the difficulties women face when trying to report harassment and the real harm harassment causes to the integrity of women to whole work environments, we cannot hope to address the issue successfully.

I commend the article to my colleagues.

[From the Washington Post, June 7, 1991]

TRADING CAREER FOR NATIONAL DIALOGUE

(By Judy Mann)

Frances Conley was one of the first fully tenured female professors of neurosurgery in the United States. She was on the faculty of Stanford University Medical School, where she reported to the man who had first hired her there 25 years ago, a man who she says "had tremendous respect for me." In the world of medicine, which is dominated by men, she had broken through the glass ceiling.

Two years ago, her mentor retired, and Conley's supportive work environment changed when he was temporarily replaced by someone Conley describes as "very arrogant. He cannot accept the fact that women were created for anything other than to feed him, clean up after him and provide him with sexual gratification."

On May 22, David Korn, dean of the medical school, informed her that he intended to appoint this person to the position permanently, because the school did not have the funds to continue the nationwide search for an outside replacement. Conley, 50, resigned. After a group of women medical students met with the Faculty Senate, which she heads, to complain about a sexist educational environment, Conley went public. In a newspaper article, she announced her resignation and accused the medical school of tolerating an environment in which she and other women were sexually harassed, humiliated and made to feel inferior.

Conley has not publicly named the person who has replaced her previous boss. At a news conference, Korn identified him as Gerald Silverberg, who has referred reporters inquiries to Spyros Andreopoulos, head of communications for the medical school. He said Silverberg would not make any statements, but he said, "We all agree her concerns about sexism in medicine are very legitimate. As head of the Faculty Senate she started a very constructive process to encourage people to come forth with problems they face in this area."

He said half of the medical school students are women, but only about 15 percent of the faculty is, compared with a national average of 35 percent. He said Korn has recently appointed several women to head key departments and is working on more faculty appointments. Andreopoulos said that part of what Conley has complained about is a matter of attitudes, which are both difficult to define and to change.

He also said that Korn has said publicly he would like Conley to return to Stanford.

Conley said the reaction to her resignation had been unbelievable. Newspapers across the country have covered it and she has been on the morning network talk shows. She described the difficult relationship with her colleague as one that went back to the days when they were residents together. "He would frequently invite me to go to bed with him. He never did it seriously. It was always in front of a crowd and he did it for effect. He was saying, I have to reduce our relationship to one where I am dominant and your are inferior. . . . It is subtle but it is a pervasive attitude problem that is very wearing on a daily basis.

She says that she had discussed the situation with Korn, but she says, "I don't think he heard me. I don't think he understood."

The medical students told her of professors using slides of Playboy centerfolds in the middle of lectures, of "comments being made. Sexual harassment in terms of fondling and feeling that they had no recourse. When I finished that meeting, I felt very guilty. I saw myself as having acted for the last 25 years as a facilitator. I've been fondled in ways that should not have happened to a professional. In the last two months, I've had a colleague say in front of a whole group, 'I can see the outline of her breast under that white coat,'"

She decided to go public after that meeting. "It's as if an abscess has been quietly seething and growing and somebody has suddenly taken a scalpel to it.

"Many people experience it on a regular basis," she says. "I feel that an administration which is already ruled by men, as medicine is, has an obligation to make sure that executive positions are filled with people who have the ability to provide a workplace and a learning environment that is going to be perceived as an equal opportunity for everybody. To put somebody in place who has stereotypical behavior is going to validate that behavior and perpetuate it into the next generation."

She said she had no recourse but to quit. "Part of the problem is I'm a very strong person. I've always had people say, 'You're a strong person who doesn't need help.' In some ways, I've been asking for help for two years."

She says she wants a dialogue, not a lawsuit, "We need to get out in the open what constitutes proper behavior and what is not proper behavior. I'd much, much rather see an open dialogue rather than put it in a system that is argumentative."

SHALLEY JONES: A BANKER WHO HAS NEVER FORGOTTEN WHERE SHE CAME FROM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today one of my constituents Shalley Jones who was recently featured in the Miami Herald upon her installation as president of the National Association of Urban Bankers. The article, "On a Financial Mission, Miamian To Lead Urban Bankers' Group" tells how a 36-year-old wife and mother of two worked her way up from bank teller to become one of the highest ranking black female bankers in south Florida's financial institutions:

To hear Shalley Jones tell it, the nation's banks and thrifts are doing a mediocre job of lending in low-income neighborhoods.

"The fact is that the people in many of these communities, although they deposit money in these financial institutions, are not getting their fair share of the loans," she contends, adding, "That fact has to change."

If Jones sounds like a staunch community activist, it's because she is. On any given day, the 36-year-old wife and mother of two is running between organizations such as the Miami-Dade Neighborhood Housing Services Inc. and Metro-Miami Action Plan.

But she's also a banker. For the past year, as first vice president of Chase Federal Bank in Kendall, she has toiled away to make sure the $1.5 billion thrift "knows and meets the needs of all the communities it serves."

When she's installed Friday as president of the National Association of Urban Bankers at the group's annual conference in Chicago, Jones plans a major push to translate such dual roles into loans to revitalize declining low-income neighborhoods.

That may be a tall order for an organization that has spent most of its 17 years struggling to ensure the growth, and in many cases survival, of blacks in banking—a profession dominated by white men.

And Jones admits that focus must remain a high priority, as financial institutions aggressively shrink their management ranks to preserve thinning profits.

"But our group has the experience, perspective and know-how to be the go-between for the banks and the communities," she says. "It's a huge effort given the contraction the industry is going through, but it can be done."

Jones' commitment to low- and moderate-income neighborhoods came the hard way—she grew up in one, as one of nine children in Goulds in South Dade.

She graduated from the University of Miami, getting by on a combination of "scholarships, grants and work study." Then, she picked up a master's degree in management from Florida International University while working in what she thought was a "temporary job" as a bank teller at Flagler Federal Savings & Loan Association.

Flagler Federal put her in its management training program, and she was hooked.

Tall and articulate, with a disarming smile, Jones has gone from making individual home loans to influencing decisions on multimillion-dollar neighborhood projects.

In addition, Jones' near-religious approach to community involvement, coupled with her status as one of a handful of high-ranking black female bankers at South Florida financial institutions, has kept her in South Florida's housing spotlight.

"The woman is totally committed to affordable housing and the less-fortunate," says Earl Phillips, director of Dade County's Department of Housing and Urban Development. "And as a banker, she has developed the ability to bring together the haves and the have-nots."

Adds Phillips, who has enlisted Jones' help on several projects: "And she never loses sight of where she comes from."

A fact Jones says she uses to help motivate herself.

"I learned a sobering and saddening fact some time ago," she says. "There are a lot of blacks out there with talent who will never get a shot simply because of their skin color."

"Yet this industry, if it's going to do well in the year 2000, must train minorities for senior-level positions," she adds. "That's where the decision-making takes place, and where [blacks] need to be."

I am happy to pay tribute to Shalley Jones by reprinting this article from the Miami Herald. She has served her community well by opening opportunities for those less fortunate.

HONORING MARY B. MILLER, ASSISTANT LIBRARY ADMINISTRATOR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mrs. Mary B. Miller, assistant library administrator at the east county regional library office. Mary is retiring after 21 years of service with the County of Los Angeles Public Library.

Mary was born in Columbus, OH. She received her bachelor of arts degree in history at Ohio State University and is also a graduate of the Immaculate Heart College School of Library Science. Mary has three children, Katy, Marjorie, and Steve.

Mary began working at the West Covina Library in 1970 as a reference librarian. By 1974 she was promoted to the position of senior librarian, and became the in-charge librarian, responsible for running one of the most influential and important regional libraries.

Advancing in both rank and admiration with the public and her coworkers alike, she was the natural choice for the position of principal librarian when the senior librarian classification was upgraded. She continued to serve West Covina as the city librarian until 1987 when she was once again promoted to the newly created assistant library administrator at the east county regional library office, which oversees West Covina and several other community libraries in the area.

During her tenure as principal librarian, she presided over a major remodeling of the West Covina Library facility, and helped celebrate the addition of the five-millionth book to the collection of the County of Los Angeles Public Library.

Shortly before her promotion to assistant library administrator, Mrs. Miller became a vital member of the team charged with implementing the automated circulation system throughout the county library. The familiar routine of signing book cards was replaced over the next 3 years by a computerized method that was cost effective, convenient, and efficient. A small part of the system's success can certainly be credited to her enthusiasm which never lagged despite occasional setbacks.

Over the years, Mary B. Miller has met many city, county, State, and Federal leaders. She has been active in civic affairs and taken an active interest in her community. She has answered thousands of reference questions and willingly helped all segments of the population.

Mary has served as mentor and as an exemplary role model for the numerous librarians who have worked at the West Covina Library. Truly, the lessons learned from Mrs. Miller's commitment to public service and to library work specifically, are a valuable legacy.

Mr. Speaker, on June 23, 1991, civic leaders and the library community will be gathered to honor Mrs. Mary B. Miller and say farewell to a dynamic individual. I ask my colleagues to join with me in a salute to a fine individual, Mary B. Miller, for her outstanding record of public service to the County of Los Angeles and community of West Covina, and to wish her a long, fruitful, and happy retirement.

WOMEN'S BUSINESS DEVELOPMENT ACT OF 1991

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LaFALCE. Mr. Speaker, as part of my ongoing commitment to create opportunities for and eliminate barriers faced by women entrepreneurs, I am pleased today to introduce the Women's Business Development Act of 1991.

This act recognizes the ever increasing role and importance of women business owners in the U.S. economy by reauthorizing and refining programs created by the Women's Business Ownership Act, Public Law 100–533, which I introduced in 1988.

Mr. Speaker, my interest in championing the cause of women business owners is not new. Three years ago, as chairman of the Committee on Small Business, I held a series of six hearings on the role of women entrepreneurs, obstacles impeding the growth of their businesses, and the effectiveness of existing programs designed to help them. The committee heard from over 2 dozen witnesses and received hundreds of pages of testimony, statements, and recommendations which we publicized in a report entitled "New Economic Realities: The Rise of Women Entrepreneurs."

Mr. Speaker, the title of this report is exactly right: the contributions to and increasing role of women business owners in the U.S. economy are new economic realities.

This is unmistakably documented in the 1987 Survey of Women-Owned Business released in October 1990 by the Bureau of the Census. Statistics from that report reveal that during the period 1982–87:

The number of women-owned businesses grew four times faster than all businesses;

The number of women-owned businesses increased by 57 percent;

Women are making significant gains in nontraditional sectors such as manufacturing and construction; and

Women own over one-third of the Nation's businesses.

One would think that Government and business would tap into this highly active segment of our economy and do the businesslike thing: give women entrepreneurs fair and equal access to compete in the market place.

Unfortunately, the testimony I heard during the 1988 hearings told me otherwise.

I introduced the Women's Business Ownership Act to implement the committee's findings and recommendations and to address the concerns of women entrepreneurs: access to credit; discrimination in lending; a lack of quality training in the skills needed to run a business; and a need for a congressionally appointed council to ensure that women business owners get the attention and assistance they deserve.

In the last 3 years, I have closely followed the progress of the Women's Business Ownership Act. It has already made permanent and lasting improvements for women business owners. It has, for example, amended the Equal Credit Opportunity Act to combat subtle forms of discrimination in commercial loan transactions.

The Women's Business Ownership Act is also a dynamic law; its benefits are ongoing and programs created by the act are designed to reach and assist new groups of women entrepreneurs on a continuing basis.

Mr. Speaker, these programs work, they serve a useful purpose, and there is a need to continue them. The Women's Business Development Act extends these worthy programs and refines them to make them more accessible and effective.

I would like to take this opportunity to provide a section-by-section analysis of the Women's Business Development Act that includes the rationale and context for its provisions.

Sections 2 and 3 of the Women's Business Development Act deal with demonstration projects created by the 1988 Women's Business Ownership Act. This program provides training, counseling, and technical assistance to women entrepreneurs in the areas of finance, management, and marketing. The projects are financed through matching private sector and Federal funds.

Before deciding to reauthorize this program, I held a hearing in April to determine what tangible benefits this program has produced. I am pleased to report that, during its first 3 years, nine organizations have been funded at 18 training sites around the country, and over 2,000 women have received business training and counseling. Furthermore, a number of new businesses have been started and existing businesses have been expanded—creating new jobs in the process—as a direct result of this program.

Section 2 of the Women's Business Development Act reflects the experience gained in administering the demonstration projects thus far. A 3-year cycle for projecting funding and operations at each training site has been deemed to be more effective than the current 1 year cycle. As part of this longer term planning a training site will, for the outset, be planing for its eventual self-sufficiency as was the intention of the original 1988 law. As a result, I am proposing a 3-year cap on Federal funding per training site to preclude any program from being funded indefinitely by the Federal Government. In addition, the SBA is urged to graduate after 3 years any sites currently operating with Federal funding.

In keeping with the 3-year planning cycle, section 2 of the Women's Business Development Act also modifies the ratio of Federal to private fund distribution over a 3-year period for programs funded in fiscal year 1993 or thereafter. SBA had requested a formula of 3 Federal dollars for 1 private dollar in year 1, a 1-to-1 match in year 2, and 1 Federal dollar for every 3 private dollars in year 3. I have decided to adjust the ratio as follows: 2 Federal dollars for every 1 private dollar in the first year, a 1-to-1 match in the second year, and 1 Federal dollar for every 2 private dollars in the third year. This was done for one basic reason: it was my opinion that awarding first year training sites funding at a 3-to-1 ratio could exhaust available Federal funds to the detriment of sites seeking second and third year funding—or the reverse, whereby once second and third year sites are funded, insufficient moneys remain to fund newcomers at a 3-to-1 ratio.

Related to this, in order to guarantee as much as possible that successful sites continue to operate through the third year, the legislation requires that viable organizations that close shop be prohibited from receiving any advance of Federal funds should that organization be approved to open another training site. Rather, the organization would be required to raise funds for a new site on a 1-to-1 private to Federal dollar match. Although there has not been a problem with sites closing, I believe the objectives of the 3-year cycle will be met better if this safeguard is included. I would also expect the SBA to also address this in its regulations governing the program.

Section 2 of the Women's Business Development Act also allows up to one-half of the private sector matching moneys to be in the form of in-kind contributions that are budget line items such as office equipment, and, with the exception noted above, permits the SBA to disburse up to 25 percent of the Federal share awarded to a training organization after notice of the award has been issued and before private sector matching funds are raised. These amendments are designed to shorten the start-up time for training programs to get underway by easing the requirements on raising matching private funds.

Last, section 2 reauthorizes the demonstration projects for 4 years.

Section 3 of the act authorizes appropriations of $4 million per year to carry out the demonstration projects.

The changes in the demonstration projects mandated by the Women's Business Development Act will affect awards made under this program beginning in fiscal year 1993.

Section 4 of the Women's Business Development Act permanently authorizes the small loan program in which the SBA guarantees loans up to $50,000. Access to credit—even small amounts—is a chronic problem even for successful women business owners. Traditionally, small loans have not been attractive to lenders because creditors deem the return on such loans as not worth the costs of processing them. The 1988 Women's Business Ownership Act instructed the SBA to simplify the forms for SBA-guaranteed loans up to $50,000 and to reduce by half the fee which banks pay the SBA for guaranteeing the loan. According to the SBA, in calendar year 1900, 2,500 miniloans were guaranteed for women and other small businesses for a total of $80 million. This demonstration of high demand for a small guaranteed loan program clearly warrants making it permanent.

Section 5 of the Women's Business Development Act affects the National Women's Business Council. The Council was established by the Women's Business Ownership Act of 1988 to recommend to the President and the Congress specific ways to support women-owned businesses and overcome barriers to full participation by women in the economic mainstream. The Council currently is under the able leadership of the Honorable Patricia Saiki, Administrator of the Small Business Administration, and my former colleague in the House of Representatives. I am confident the Council will be highly productive during her tenure as Chair.

The membership of the Council is drawn from the public and private sectors to bring a breadth of experience and approaches to tackling the problems particular to women business owners. To ensure that the expertise of both private and public sector members of the Council is utilized, the Women's Business Development Act requires that the term of the Chairperson will be fixed at a maximum of 2 years, and that a private sector Council member be designated Chair at least every other term.

Mr. Speaker, I know my colleagues support women-owned businesses. This was demonstrated by the strong bipartisan support for the 1988 Women's Business Ownership Act. Now is the time to renew our commitment to level the playing field for women entrepreneurs. The success of the programs created by the 1988 legislation deserve more than mere acknowledgement, they deserve to be continued as authorized and amended by the Women's Business Development Act.

I look forward to discussing this bill with my colleagues on the Small Business Committee where I expect it will be favorably received, and I hope to bring this legislation to the floor of the House for a vote in the very near future.

A YOUNG AMERICAN'S REFLECTIONS ON CURRENT SOCIAL PROBLEMS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. PORTER. Mr. Speaker, I would like to share with my colleagues the reflections of one constituent after her recent visit to a homeless shelter in Chicago. In her poem, "Take Care of Our Own," Erica Portnoy, an

11-year-old student at the Walt Whitman School, has related her feelings about a myriad of challenging social issues: homelessness, hunger, and poverty. Erica's thoughtful and insightful commentary reminds us of the continuing need to battle these domestic problems, but it also provides a certain reassurance that there is a future generation of leaders, like Erica, who are already demonstrating a concern for the needs of their fellow citizens.

The poem follows:

TAKE CARE OF OUR OWN
(By Erica Portnoy)

Hunger and homeless, living in poverty;
Many are there, but no one will see.
Take care of our own!

Fifteen years old, home alone;
No more school, can not learn,
Empty stomach does burn.
Take care of our own!

Mom's making money, but not enough;
The kids go to bed hungry—bad stuff.
Take care of our own!

Third world nations plead poverty;
While homeless are here, but no one will see.
Take care of our own!

American people are starving,
Young people will die all alone.
We just got to take care of our own.
If we don't do something right now,
Soon more will taste bitter poverty.
So we should first take care of our own . . .

People of the world, with many problems
We should help them out.
Our first responsibility is to take care of our own.
Let's heal our broken soul,
Before accomplishing the world's goal.
Kids:
White—1 in 5 not enough to eat;
Kids:
Black—3 in 5 hang out in the street.
Take care of our own!

In 5 years, expect violence in the streets;
Its not right for American brothers and sisters, with nothing to eat!
Take care of our own!

If you don't have a home,
Your only choice is to roam.
Sell some drugs, easy to pick up a gun;
For the starving, hard to look for fun.
Before it's too late, lets take care of our own!

A CONGRESSIONAL SALUTE TO MR. JOHN SMITH

HON. GLENN M. ANDERSON

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 12, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to John Smith, a good friend of the southern California educational community. Mr. Smith, a long-time resident of the harbor area, will retire after 22 years of service to Mary Star of the Sea Elementary and Junior High School. This occasion gives me the opportunity to express my deepest appreciation for his years of service to Mary Star, and the community.

By virtue of his kindness toward others, his commitment to the needs of his students, and his unflinching dedication to the betterment of mankind, John Smith stands as an inspiration to all those who have ever known him. John came to the United States from Port Elizabeth, South Africa. After quickly falling in love with his adopted country, he became a U.S. citizen. In 1969, shortly after earning his master's degree in English from California State University at Long Beach, John began his teaching career. Originally, John taught Junior High students at Mary Star of the Sea in San Pedro. He later decided to devote his time to the younger children and subsequently has been teaching in the elementary school at Mary Star.

John is known for his love of the United States and for his devotion to his church. He is a devout, gracious man who exemplifies the best traits of a good Christian. He is admired and respected by his students, his fellow teachers and administrators, and the parishioners of Mary Star of the Sea Church Parish.

In this time when economic factors frequently cause qualified candidates to shy away from teaching, it is comforting to see someone as talented as John Smith sacrifice his financial opportunities for the betterment of our young people. His students are better people for having had the privilege of knowing him. He is truly a valuable American citizen.

My wife, Lee, joins me in extending our thanks for John Smith's contributions to the community. Mary Star of the Sea is losing an extremely valuable personality. He is a truly remarkable individual who has devoted his talents and energies to enriching the lives of so many others. We wish John and his wife Cecilia all the best in the years to come.

THE 100TH ANNIVERSARY CELEBRATION OF THE ORANGE MEMORIAL HOSPITAL AUXILIARY

HON. DONALD M. PAYNE

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 12, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the occasion of the 100th anniversary celebration of the Orange Memorial Hospital Auxiliary.

The Orange Memorial Hospital Auxiliary was founded on June 15, 1891, "to assist and cooperate with the Board of Governors of the hospital"—now known as the Hospital Center at Orange—and has since grown as a dedicated volunteer force to help the hospital meet its challenge in providing care for patients.

Today, more than 200 dedicated men and women living in the Oranges, Maplewood, Milburn, and surrounding towns support the hospital in a united volunteer spirit of commitment and caring.

Among their many efforts, auxilians and volunteers touch the lives of patients and hospital staff through volunteer visiting, oncology support services, tutoring programs to teach English to foreign-speaking staff, assistance in translating vital medical information for non-English-speaking patients, and numerous clinical duties to help alleviate the effects of professional staff shortages.

In addition to patient support service, auxilians sponsored fundraising activities to assist the finance for new hospital construction, advanced medical equipment, and patient support programs.

All members of the auxiliary with its officers Elizabeth McHugh, president; Netta Torlucci, vice president, ways and means; Barbara Wotiz, vice president, membership; Jane Keating, vice president, programs; Betty Lou Wilder, treasurer; Mary Donadio, recording secretary; and Barbara Claycomb, corresponding secretary; are celebrating their 100th anniversary of ongoing service and support to the Hospital Center at Orange in its two units, Orange Memorial Hospital and New Jersey Orthopaedic Hospital.

Mr. Speaker, again I congratulate the volunteers who work so hard to make the Hospital Center at Orange such a great success.

HISTORIC WATERFORD, NY, TO CELEBRATE 175TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 12, 1991

Mr. SOLOMON. Mr. Speaker, among the many communities in upstate New York which I have the privilege of representing is one which is proudly commemorating the 175th anniversary of its town government this year—the town of Waterford.

Actually, this anniversary is a little deceptive in terms of telling the full story of Waterford's history, which dates back to the very earliest days of America. Indeed, the town was actually the northern most point of Henry Hudson's explorations in 1609, and received its first Dutch settlers in the 1630's. It later played a key role in the development of American commerce, helping to give birth to the American industrial revolution and lying at the gateway to New York's great Erie and Champlain canal system.

Through all of these years, Waterford has always been an active and ready part of every facet of our Nation's history, including the proud participation of its citizens in every struggle for liberty from the American Revolution right up to Operation Desert Storm. Indeed, the timing of this celebration, focusing on a parade and festival on June 15, could not be more appropriate as it is commemorating the best of America at the very time Waterford and other communities across the country are welcoming home America's finest from the Persian Gulf.

I ask my colleagues to join me in congratulating the town of Waterford on this special anniversary, and in thanking the citizens of that historic community for all of their past and continuing contributions to our Nation's freedom, prosperity, and greatness.

INTERNATIONAL PARENTAL CHILD AWARENESS WEEK

HON. STEPHEN J. SOLARZ

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 12, 1991

Mr. SOLARZ. Mr. Speaker, on June 6, 1991, together with my colleagues, Mr. ACKER-

MAN and Mr. SAXTON, I introduced legislation that would designate the week beginning August 4, 1991 as "International Parental Child Abduction Awareness Week."

In 1988, the last year complete data is available, over 400 American children were victims of kidnappings by their noncustodial parent and were taken from their homes in the United States to foreign lands against their will. Since 1978, there have been over 4,000 reported cases of international parental kidnapping and perhaps thousands more that have not been reported. The horror and terror the victimized parents and children face are indescribable in these traumatic cases. And the tedious and torturous paths these parents and children must take in order to be reunited may last years. Even then, their efforts are too often to no avail.

The United States has now begun to respond to these parents and children who so desperatley need assistance. In July 1988, the United States became a signatory of the Hague International Treaty on Parental Kidnapping. Today, there are over 15 signatories to this treaty, with another five countries slated to sign the next several months.

Under the Hague Convention, member countries agree to return kidnapped children to the country of origin in a timely manner when the children are located. The goal of the Hague Convention is to restore the victimized children to their original homes and families as quickly as possible.

Our adherence to the Hague Convention was a significant development. But more must be done. It is my hope that "International Parental Child Abduction Awareness Week" will energize both the Government and private agencies to combat this growing problem of parental kidnaping.

In conclusion, I would like to bring to the attention of my colleagues a story that I find both poignant and instructive. It involves a constituent of mine, Mr. Lew Smith and his daughter Sabrina, who was kidnapped by her mother over a year ago and taken to France. The story is best told in the words of Mr. Smith:

> Imagine if you can that your child has been kidnapped. There is no ransom note. There is no trail. There are no leads. She or he just cannot be found. You fear that your child is in danger. Harm could come to them at any time. For you, this is an abstraction, a horrible but distant story; perhaps something that you have read about in the newspapers. For me, it has been an indescribable reality.

International parental child abduction is a tragedy we must protect our children and our parents from ever having to experience. Please join me in remembering these victims during the week of August 4, 1991.

EQUAL BUT INVISIBLE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. TOWNS. Mr. Speaker, I rise today with question and concern. American architects who are Native American, Black, and Hispanic are not getting the attention they have rightfully earned and deserve. During a time when the President and many Congressmen feel a civil rights bill is not necessary, many in this field are held back because of the color of their skin.

Although minority participation in architecture is growing, the pace has been too slow and often impeded. Hispanic Americans who make up 8 percent of the population constitute a slim percentage of the 100,000 architects who are American Institute of Architecture members. Less than 1 percent represents the tally for native Americans. Blacks are the largest component of the minority population (12 percent), but only equal 1.1 percent of AIA members.

Minorities in this field are invisible, tucked away so no one can find them. Many possess capabilities which match those who have rebuked them. But because of wrongfully determining factors minorities have never received their chance to display their architectural skills.

Injustice on any level is wrong. I hope my colleagues will join with me in solving this depressing problem.

BROTHER JOHN DRISCOLL: MAKING A DIFFERENCE FOR IONA COLLEGE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. LOWEY of New York. Mr. Speaker, one person can make a difference. The efforts and talents of a single individual can play a decisive role in the life of a community. For proof, one need only examine the career of Brother John G. Driscoll.

In his 20 years as president of Iona College, Brother Driscoll has transformed that school into a vital part of its community and an admirable institution of higher learning. His prodigious and tireless efforts on its behalf have borne fruit many times over, and our community is greatly strengthened as a result.

Brother Driscoll is a man who is perfectly suited for the demanding job he holds. A scholar with a Ph.D. in mathematics from Columbia University, as well as degrees in mathematics and physics from Iona and from St. John's University, he brings a love of learning to his work that has been reflected in the strength of his leadership. As an educator who has taught pupils at all levels, from elementary school to advanced graduate courses, he has a dedication to education that has been the driving force behind the improvements that he has brought Iona. And as a member of the Congregation of Christian Brothers, he is endowed with deeply rooted values that spur his tremendous good work.

In addition to his important work at Iona, Brother Driscoll serves as a trustee or director of such diverse organizations as St. Joseph's Seminary and School of Theology, the New Rochelle Hospital Medical Center, Chase N.B.W. Bank, City Harvest, Inc. of New York, and the Irish American Sports Foundation. He also serves on the board of the World Trade Institute of New York. As a lecturer, he has spoken throughout the United States, as well as in Ireland, Canada, Scotland, Austria, the West Indies, Israel, and England.

The unfailing efforts and countless good works of Brother John G. Driscoll have been recognized with honorary degrees from the College of New Rochelle, St. Thomas Aquinas College, Pace University, and the National University of Ireland, in addition to numerous other awards. I wish to join those who have paid tribute to this remarkable man, and I am sure that all of my colleagues join me in extending to him our best wishes on the occasion of his 20th Jubilee at Iona College.

HONORING LT. COL. ED HIESTAND, USAF RESERVES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. McEWEN. Mr. Speaker, I rise today to recognize and honor the outstanding service of Lt. Col. Ed Hiestand, USAF Reserves, a navigator of the highly effective C–130 transport planes with the 907th Tactical Airlift Group.

Colonel Hiestand, a temendous asset to the U.S. Air Force who has served for the past 28 years, was activated to full-time active duty status on January 21 of this year. The transport planes of the 907th Tactical Airlift Group were needed to accomplish the historic movement of American troops, equipment, and supplies to the Persian Gulf.

The airlift accomplishments of our Air Force during Operation Desert Shield and Desert Storm are unparalleled in military history, playing a vital role in allowing the American Armed Forces to utterly dominate the fourth largest military in the world. Colonel Hiestand has earned our heartfelt thanks for contributing his invaluable skills to the 907th tag and helping the Air Force accomplish this logistical miracle.

Mr. Speaker, I have the pleasure of considering Ed Hiestand a friend. Along with his service to the country, Ed is a proud father and devoted husband. Ed and his wife, Helen Hiestand, have been leading members of the First United Methodist Church in Hillsboro, OH, for years. His two children, Joe and Janis, have each followed in their father's footsteps, becoming proud members of the Armed Forces Reserves.

Colonel Hiestand's devotion and loyalty to our country can be seen in his distinguished Air Force career. 1990 and 1991 were not Colonel Histand's first years of service to America during wartime. Like many servicemen who took part in Operation Desert Storm, he proudly and honorably served his country during the Vietnam war. He spent 6½ years on active duty as an electronic war officer, and flew on a number of rotations in Southeast Asia during the Vietnam war.

After completing his active duty service in 1970, he entered the Reserves and became a navigator of C–123's in the Buckeye Wing of Clinton County. Due to the introduction of the new C–130's in 1981, Colonel Hiestand was required to learn an entirely new navigation

system. His significant peacetime service included running a rotation out of Panama and making Embassy runs out of Howard Air Force Base.

During wartime, Colonel Hiestand has served the United States with distinction and valor. During peacetime, he has personified the vigilant professionalism that protects the freedom and values the American people hold so dear.

Mr. Speaker, Colonel Hiestand's contributions to the Air Force will continue to benefit the Nation well into the 21st century. As the 907th Tactical Air Lift Group is one of the last reserve outfits to leave the Persian Gulf, I'm sure my colleagues join me in commending and thanking Ed Hiestand and the 907th for their service to America, and their dedication to the principles of freedom and democracy.

HONORING JAPANESE-AMERICAN VETERANS IN WASHINGTON, DC

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MINETA. Mr. Speaker, from the Spanish-American War to Operation Desert Storm, Americans of Japanese ancestry have served in our military with distinction, honor, bravery, and dedication. That commitment to our country and its ideals has been sorely tested, not only in battles fought on foreign soil, but also here at home.

Almost 50 years ago, a terrible tragedy occured in this country. In the wake of the attack on Pearl Harbor by the Empire of Japan, President Roosevelt signed Executive Order 9066 authorizing the forced removal of all Americans of Japanese ancestry from the west coast. Many families had only days, sometimes only hours, to gather their belongings and leave for internment camps in remote parts of the country.

In total, 120,000 Americans of Japanese ancestry were confined to internment camps between 1942 and 1946.

No charges were filed. No trials were ever held. These loyal Americans fell under suspicion simply because of their racial heritage, wartime hysteria, and weak political leadership. They lost their homes, they lost their businesses, but above all they lost their most basic human rights.

Despite this treatment at the hands of their own Government, 33,000 Americans of Japanese ancestry served in the United States Armed Forces during the Second World War. These men and women served in the Military Intelligence Service, they served as medics and teachers, they served in the WAC's and in the Army Air Corps. But by far their most celebrated contributions were in the Army, where the all-Nisei 100th Battalion and 442d Regimental Combat Team became two of the most decorated units in American military history.

The 100th Battalion, originally a part of the Hawaii National Guard, left for the European theater in September 1943. Fighting as part of the Allied campaign in Italy, the 1,400 men of the 100th suffered an extraordinary level of casualties.

In just the first month and a half of fighting, 78 of their number were killed and 239 wounded or injured. During the war the 100th ultimately earned 900 Purple Hearts and the nickname "the Purple Heart Battalion."

In June 1944, the 100th merged with the 442d Regimental Combat Team, which was composed of Japanese-American volunteers from Hawaii and the United States mainland.

The 442d suffered 9,486 casualties during the 7 major campaigns it carried out in the European theater. By war's end the 442d had earned 18,143 individual decorations including 1 Congressional Medal of Honor, 47 Distinguished Service Crosses, 350 Silver Stars, 810 Bronze Stars, and over 3,600 Purple Hearts.

The unit was cited seven times by Presidents Roosevelt and Truman with the Presidential Distinguished Unit Citation. The 442d's exploits on the battlefield and their passionate devotion to our cause was a testament to their motto: "Go For Broke."

Mr. Speaker, the incredible sacrifices of the 100th Battalion, the 442d and all the Americans of Japanese ancestry who served this country during the Second World War tell an incredible story of courage and devotion to country in the face of terrible circumstances.

As these men and women were giving their all to defend this country, they carried with them the pain of knowing that many of their friends and families set locked behind barbed wire fences in the United States.

But their story is ultimately one of abiding faith in this country and its ideals. They firmly believed that, although their rights and the rights of their families had been violated, although they were viewed with suspicion and fear, that this country would ultimately act to remove the stain of disloyalty.

The 100th Congress finally did that with the passage of the Civil Liberties Act of 1988, which formally apologized to those Americans of Japanese ancestry who were interned during the war and offered an apology and compensation for the loss of their rights.

Just as the sacrifices of the 100th and the 442d demonstrated the loyalty of Japanese-Americans, the memory of their service was crucial to our efforts to achieve redress for those who were interned. It was in honor of these veterans that the Civil Liberties Act of 1988 was designated H.R. 442 here in Congress. Their extraordinary service will always serve as a shining example of the dedication of Americans of Japanese ancestry to this country and to its most sacred ideals.

That dedication has lived on through the intervening years by Japanese-American veterans who served in Korea, in Vietnam, in Granada, in Panama, and most recently in Operation Desert Storm.

Mr. Speaker, today I am introducing legislation to authorize the construction of a memorial here in Washington, DC honoring the military service of these Americans of Japanese ancestry.

The drive to establish this memorial has been led by the Go For Broke National Veterans Association [GFB–NVA]. Although the name reflects the motto of the 442d Regimental Combat Team, the organization is open to all American veterans and current service personnel of Japanese ancestry, their families, and supporters.

The memorial invisioned by the GFB–NVA will not commemorate any particular war, unit, or service. Its goal is to remind all Americans of the precious nature of liberty, and the tremendous price that has been paid to preserve that liberty for future generations. No Federal funds will be required to build this memorial, which will be financed with private contributions.

Mr. Speaker, this memorial will be a fitting tribute to the heroism of these brave and loyal Americans of Japanese ancestry, and I urge my colleagues to join with me and support this legislation.

TRIBUTE TO GEORGE L. PATMOR

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, George L. Patmor, of Salem, KY, who died April 20, 1991, at Crittenden County Hospital in Marion, KY of an apparent heart attack at age 68.

George Patmor was one of my favorite constituents. He was liked and admired in western Kentucky.

George Patmor was for many years the general manager and part-owner of WMJL–AM radio station in Marion. He had been associated with WMJL–AM for about 13 years.

Patmor was the chairman of the Crittenden-Livingston County Water District, a director of the Kentucky Rural Water Association, and a member of the Governor's Council of Area Development Districts.

Patmor was twice selected Crittenden County man of the year by civic clubs in Marion. He was also a past chairman of the Pennyrile Area Development District, a past trustee of Campbellsville College, a past member of the Crittenden school board and a past member of Soil Conservation District in Crittenden County.

He is survived by his wife, Marian Patmor; three daughters, Mary Ann Broyles of La Grange, KY, Janet Maddux of Salem, and Betty Robinson of Nashville, TN; a son, George LaRue Patmor II of Sturgis, KY; and nine grandsons.

My wife Carol and I extend to the family of the late George L. Patmor our sympathy.

HIGH COST OF MEDICAL EQUIPMENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GEKAS. Mr. Speaker, today I introduced legislation to combat the high cost of durable medical equipment provided by certain health care suppliers. The purpose of my legislation is to encourage the investigation of abuses in the Medicare Program.

In 1990, the people of the United States spent approximately $600 billion on health care, $109.7 billion of which was spent on the Medicare Program alone. Despite these sums of money, more than 30 million people in the United States are still without adequate health care insurance. In the face of escalating health care costs as well as an every increasing demand for Government funds, Medicare must allocate its money as efficiently as possible. These vital resources must be efficiently utilized in an attempt to maximize their effectiveness.

It has come to my attention that certain health care suppliers have been abusing the Medicare system by supplying health care products at an unwarranted profit. These outrageous pricing schemes have been documented in many cases throughout the country. For instance, $10 heating pads are being sold for $66 and, in one case, a $28 foam pad was sold for nearly $1,200. Medicare is responsible for reimbursing 80 percent of the cost, the difference to be paid by the patient or a supplemental insurance company. Many times, these unscrupulous suppliers will not even bother collecting the remaining 20 percent, having already profited sufficiently off the initial 80 percent.

An investigation initiated by the late Senator John Heinz, ranking member of the Special Committee on Aging in the Senate, in cooperation with the Inspector General Office of the Department of Health and Human Services revealed that marketing techniques used in the sale of durable medical products of limited application or poor quality. At the time of his death, Senator Heinz was spearheading an investigation into this outrageous situation. I believe that we owe it to the late Senator, the citizens of Pennsylvania and the entire Nation to end this exploitation of the taxpayers who foot the bill for Medicare. This type of abuse stinks and it has to stop.

I have written to the Health Care Financing Administration, which is responsible for the administration of the Medicare Program, and urged that they create a plan bringing an end to these unfair pricing procedures. Through the introduction of this legislation, I now urge the appropriate House committees to continue current investigations of these abuses and terminate this ethical disease that is crippling America's health care system.

DEBT REDUCTION FOR POLAND

HON. WILLIAM O. LIPINKSI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LIPINSKI. Mr. Speaker, last fall Congress demonstrated its commitment to Polish economic reform by authorizing a total write-off of Poland's $3.8 billion debt to the United States. Following through on this authority, President Bush in March announced a 70-percent forgiveness of the debt. Combined with the 50-percent reduction granted by the other Paris Club nations, this represents a major step toward freeing democratic Poland of the overwhelming burden of debt left by the Communists.

Despite these steps, we must keep in mind that a sizable portion of Poland's foreign debt is owed not to foreign governments but to foreign banks. In the United States alone, the $3.8 billion debt to the Government is nearly matched by a $3.5 billion debt to commercial banks. In order to continue the building process, the banks must do their share by agreeing to a similar debt reduction plan as the Paris Club's.

Next week, Polish officials and creditor banks will meet in Frankfurt to negotiate debt forgiveness. The importance of these negotiations to Poland's long-term economic growth cannot be understated. Success would be a much needed boost to Poland's efforts to reform its struggling economy, failure a terrible setback.

At a time when Poland is attempting the boldest economic change in newly democratic central Europe, debt forgiveness is essential to the outcome of these efforts. Only then can President Walesa and his Government commit every available resource toward increasing domestic investment and spurring economic growth. The commercial banks must realize that a successful transition to a market economy is not only in the best interest of the Polish people but will undeniably contribute to the democratization of all of central Europe and to the well-being of the West.

A FLEXIBLE STANCE TOWARD POLAND'S OUTSTANDING DEBT IS IN THE BEST INTEREST OF ALL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LANTOS. Mr. Speaker, on June 18–19, representatives of the Polish Government and the London Club commercial banks will meet in Frankfurt, Germany, for the purpose of renegotiating terms for satisfying Poland's outstanding debt. As Poland struggles to extricate itself from the havoc caused by Soviet-style economics, I urge the representatives of the interested commercial banks to demonstrate flexibility in these talks so crucial to Poland's future.

In the years since Poland democratically elected its Government, bold economic initiatives have been enacted with an astounding degree of success. The Government has created an open economy with a fully convertible currency. It has greatly reduced the country's crippling rate of inflation. Poland's first postwar stock exchange opened in April of 1991. Moreover, severe food and consumer goods shortages have been eliminated.

An essential of this stupefying transition was the decision of Paris Club creditors to forgive half of Poland's $33 billion official debt. I hope the success of the Paris Club talks will set the stage for this month's talks in Frankfurt.

The direction Poland has chosen is clear. The Government of Poland, expressing the will of the Polish people, is striving to create a free market. As a result, Poland is now one of the most promising markets for the West. It is therefore advantageous for all parties concerned to see the burden of Poland's debt substantially lifted.

If given breathing room now, Poland will soon prove a worthy partner of the West. It is my hope that the promise of Poland's future is not snuffed out in the interest of short-term gain. A rigid stance toward Poland's outstanding debt is in no one's interest.

TRIBUTE TO CONGRESSMAN CHARLES BENNETT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. RANGEL. Mr. Speaker, today I want to congratulate our distinguished colleague, CHARLES BENNETT, who is celebrating a landmark achievement, not missing a single legislative vote in over 40 years. This event is the longest in the history of the U.S. Congress and is something that every Member of Congress hopes to achieve. I would like to tell the story of this remarkable accomplishment.

Initially running for a seat in 1941, CHARLIE BENNETT ceased his campaign activities to enlist in the Armed Forces to defend the United States. He courageously led over 1,000 guerrillas in the Philippines, and was awarded the Silver Star and the Philippines Legion of Honor for gallantry in action.

After returning to Florida, Mr. BENNETT successfully ran for Congress and first took office in 1949. In the beginning of his illustrious and continuing term of office, Congressman BENNETT missed several legislative votes and vowed not to repeat the incident. Then on June 4, 1951, after being told by the Speaker, Sam Rayburn, there were no remaining votes on the floor for that session, he left the House to attend a meeting. After leaving, Congressman BENNETT sensed there could be a vote on a minor matter and returned to the House to find that his suspicions were correct, and that he had missed a legislative vote.

That was the last time a legislative vote occurred without a vote from the congressional district represented by Congressman CHARLIE BENNETT.

And today, I honor the man, who has tirelessly served his constituents, overcoming health problems, broken limbs, and even personal tragedy to ensure his district's voice will be heard.

OPPOSITION TO THE KOLBE-ESPY AMENDMENT TO H.R. 2519, THE VA–HUD APPROPRIATIONS BILL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, last week the House passed the VA–HUD-Independent Agencies appropriations bill for fiscal year 1992. Attached to that measure was an amendment which authorizes a transfer of funds from HUD's flexible subsidy program to the HOPE–1 Home Ownership Program. I did

not support this amendment because I have some very serious reservations about the HOPE–1 Program.

Let me be very clear in my objections: I do not oppose efforts to assist public housing residents or low income individuals or families in purchasing homes. I do, however, have some serious reservations about the way the HOPE–1 Program is set up. HOPE–1 would provide funding assistance to tenant associations to purchase their public housing units. It does not, however, provide for a one-for-one replacement of the units that are sold to the resident management associations. Vouchers and certificates are provided to those who are unable to join with other tenants in the tenants' association to purchase the public housing complex. These vouchers or certificates can then be used for a period of 5 years as a subsidy to rent housing elsewhere. There is no requirement that the units that are sold be replaced by either new construction of public housing units or by the renovation or rehabilitation of existing units. If the HOPE–1 Program is successful, what we will likely see in several years is a situation where the Government is all but out of the public housing arena because units currently in existence will have been sold to tenants' associations and no new units will have been brought into the pool of available public housing.

Further, under the HOPE–1 Program, tenant management groups that purchase their dwellings will be eligible to receive an operations subsidy for 5 years. After that, the assumption is that the associations will be self-sufficient enough to carry the full burden of operation and upkeep. Unfortunately, this is not borne out by the economic realities of home ownership, management and upkeep. In order to maintain these units—which are getting older and will need more and more extensive and expensive repairs—the tenant associations will not only have to be concerned with operating the association and upkeep on their properties, but also with operating an endeavor profitable enough to sustain the corporation and the units.

Finally, I am concerned that the funds going to the HOPE–1 Program are coming from a vital public housing program, the flexible subsidy program. This program is designed to assist in the renovation and rehabilitation of existing public housing units. By drawing money from this fund into HOPE–1 we are burning our housing candle at both ends: paving the way for the purchase and non-replacement of public housing units and reducing funds for the renovation of existing units. In Chicago alone there are hundreds of vacant public housing units that are unused because they are in disrepair. Meanwhile, the city's list of persons waiting to get into public housing is in the thousands. How, then, does it make sense to take funds from a program designed to create public housing and put them toward a program that will reduce the number of units available?

In an attempt to better understand this issue, I discussed this amendment with my distinguished CBC colleague, the Honorable LOUIS STOKES, who is the ranking member on the Appropriations Subcommittee which acted on this legislation. It is my understanding from Congressman STOKES that his subcommittee carefully reviewed the funding allocations for all of the HUD programs, including HOPE–1, and after much deliberation decided not to fund the HOPE–1 Program for many of the same reasons I have outlined.

I am a strong supporter of the HOPE–2 and HOPE–3 Programs, as well as the HOME Block Grant Program. HOPE 2 and 3 are designed to assist low-income families with the purchase of housing and the HOME Program is intended to make additional rental or subsidized units available to get homeless people off the streets and out of shelters and into their own residences.

TRIBUTE TO FATHER EDMUND SZLANGA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding member of the Fifth Congressional District of Illinois, Father Edmund Szlanga, who will be retiring this month after years of dedicated service to the Catholic Church.

Ordained in 1948, Father Szlanga has served in the priesthood for 43 years. During these years, he has been the pastor at St. Bruno and an associate pastor at St. Josaphat, St. Turibus, St. Mary Magdalen, St. Fidelis, and St. Rene. He has also been chaplain of the Alexian Brothers Hospital.

As pastor of St. Bruno for 17 years, Father Szlanga has been a great influence on both the parish and the congregation. He not only was instrumental in building a hall for the parish, but he has been a spiritual leader for many of the parish organizations. His concern for the students and commitment to their education has made the St. Bruno a respected elementary school and an important part of the community.

Father Edmund Szlanga is compassionate, understanding, and encouraging to all. His commitment to his church and his community is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to Father Edmund Szlanga for his many years of selfless dedication, loyalty, and priceless contributions to his community. I wish him well on his retirement and know that his influence will be treasured for many years to come.

INTRODUCTION OF LEGISLATION REGARDING EXPANDING THE COVERAGE UNDER THE ACTIVE DUTY DEPENDENTS' DENTAL PLAN

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BUSTAMANTE. Mr. Speaker, the Active Duty Dependents' Dental Plan [DDP] provides basic preventive dental care for military dependents on a cost-sharing basis. It has enjoyed tremendous support from the uniformed services since the benefit went into effect in 1987. Approximately 70 percent of those eligible are enrolled in the plan.

While a popular benefit, DDP provides only the following services:

Diagnostic, oral examinations and preventive services and palliative emergency care; and basic restorative services of amalgam and composite restorations and stainless steel crowns for primary teeth and dental appliance repairs.

The 1989 Hay-Huggins Benefit Report on Prevalence of Practice indicates that benefits under the DDP are inferior to what is offered in the civilian sector. More than a third of the civilian employers pay the entire premium whereas military members pay 40 percent. Civilian plans provide extended basic restorative care, including root canal therapy, tooth extraction, and bone and gum treatment. Civilian plans also offer major restorative and orthodontia coverage and generally require the same or lower copayments to the limited coverage under the DDP. The limited DDP coverage places the military in the bottom 20 percent of large corporations in this major benefit area.

Under present law, members of the DDP cannot pay more than $10 per month. My bill proposes to increase the monthly premium to $18 per month. Raising the monthly premium to $18 per month will generate enough revenue to cover the cost of expanded dental coverage.

Last month, the surgeons general of the three military services voiced their support for expanding the coverage under the dental plan in testimony before the Senate Armed Services Committee. Representatives of the National Military Families Association have told me that military families have told them that they would be more than willing to pay a higher premium for expanded dental coverage. Their view is shared by the surgeons general of the Army, Air Force, and Navy.

My bill would give the Secretary of Defense the authority to define the benefit under the Dependents' Dental Benefit Plan and require beneficiaries to pay a little extra for a dental benefit which is comparable to private industry. That's a small price to pay for offering our military dependents the type of dental care they should have.

Mr. Speaker, before closing, I wish to thank the National Military Families Association and its representatives Ms. Sidney Hickey and Dorsey Chescavage for their efforts in assisting me in the preparation of this bill. They've done yeoman's work on this issue, and I appreciate their dedication to improving the quality of lives and general welfare of our military personnel and their families.

I urge my colleagues to join me in supporting this measure.

LSU TIGERS WIN COLLEGE BASEBALL WORLD SERIES

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BAKER. Mr. Speaker, while much baseball attention is today directed to Miami and Denver as new cities for National League baseball franchises, the entire sports world is still focusing on the Louisiana State University campus in Baton Rouge. LSU captured the College Baseball World Series title for the first time on Saturday by defeating Wichita State by a score of 6 to 3. This eventful title culminates a 6-year stretch where the LSU Tigers have appeared in the College World Series five times, but until Saturday, have never captured the national title. S.E.C. Coach of the Year Skip Bertman led the Tigers to 55 wins this year, tying the university record.

LSU won the S.E.C. regular season title for the second straight year. They are the first team to go undefeated through both the NCAA Regional Tournament and the College World Series since 1982. The LSU defense was outstanding, allowing only one error in the final four games, setting a new fielding percentage record.

LSU also showed their powerful offense by setting a CWS record for average runs per game with 12. LSU senior catcher, Gary Hymel, hit four home runs in one World Series, tying a collegiate record dating back to 1963. Chad Ogea was the winning pitcher in two games, including the championship game. LSU, as a team, hit nine home runs during the CWS, tying the record of Arizona State in 1981.

I commend the LSU Tigers for a job well done. By combining recordbreaking pitching, hitting, and fielding, LSU has brought the College Baseball World Series title to Louisiana for the very first time.

FILIPINO INDEPENDENCE DAY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HUNTER. Mr. Speaker, June 15 is designated Filipino Independence Day, a change from the day so celebrated for some 16 years from July 4, 1946, when the Philippines became a sovereign country. It was during the tenure of President Macapagal of the Philippines in 1962 that the change was made, and July 4 was renamed as Filipino-American Friendship Day. As a matter of fact, there are several days that could be considered Filipino Independence Day, beginning with the defeat of Spanish forces in the Spanish-American War, and continuing through to the defeat of Japanese forces in World War II.

On April 25, 1898, following the destruction of the battleship *Maine* in Havana Harbor, the U.S. Congress declared war on Spain. On May 1, in the battle of Manila Bay, Admiral Dewey defeated the Spanish squadron, and on August 12, Spain sued for peace. In subsequent negotiations, by the Treaty of Paris, signed December 10, 1898, America paid Spain $20 million and received from Spain a protectorate over Cuba, and possession of the Philippines, Puerto Rico, and Guam. The other Marianas Islands, plus the Caroline Islands and the Palaus, had been sold by Spain to Germany the previous September.

During the Spanish-American War, the father of Gen. Douglas MacArthur, Brig. Gen. Arthur MacArthur, arrived in time to take part in fighting, in conjunction with the Filipino Army, against the Spanish forces occupying Manila. After the fall of Manila and the surrender of Spanish forces, Arthur MacArthur was promoted to major general of the volunteers and assigned to command the 2d Division, later assigned to command the Army of the Philippines as military governor of the Philippine Islands. Under his direction, the program of giving the Philippines a framework of education, law, defense, and prosperity was carried out. As Gen. Douglas MacArthur wrote in his "Reminiscences":

> My father felt that sovereignty was the only possible solution for these freedom loving people—sovereignty with a special friendship binding our own country with theirs.

In 1935, Manuel Quezon, president-elect of the about-to-be Philippine Commonwealth, came to Washington and asked General Douglas MacArthur to come to the Philippines and build the defenses of that country. Gen. MacArthur agreed, and went to the Philippines in the fall of 1935, to organize a Filipino Army that was to have 40 divisions by the time the commonwealth achieved independence, which was scheduled for July 4, 1946. Unfortunately, Congress didn't approve the expenditures that would have achieved General MacArthur's plans for defense. As President Quezon stated:

> Defeatists are everywhere. But General MacArthur's faith and hope in the Filipino people have never varied. They have matched even my own faith in my country and in my countrymen.

With a scarcity of United States funds earmarked for the Philippines, the United States and Filipino forces were no match for the Japanese, who attacked with bombers the day after the surprise attack on Pearl Harbor on December 7, 1941. Within a few months, President Quezon and General MacArthur having been ordered to leave the Philippines, our forces there surrendered. On his arrival in Australia to take over command of the Pacific theater ordered by President Roosevelt, General MacArthur gave his famous speech that included the phrase "I shall return" and immediately set about preparing for that return.

Inspired by MacArthur's promise as well as by the colossal cruelty of Japanese forces in the Philippines, guerrilla resistance grew and became more effective as it was supplied by United States submarines. On October 20, 1944, General MacArthur returned to the Philippines in the first landing there, on the island of Leyte. He was accompanied by then President Sergio Osmena, and Gen. Carlos Romulo.

Three days after the initial landing, the capital of Leyte, Tacloban, was declared secure, and General MacArthur turned over to President Osmena the civil government of Leyte. As General MacArthur wrote in his memoirs:

> I called the President to the wrecked and devastated provincial capitol building three days after the landing and formally proclaimed the resumption of constitutional government before a gathering of Filipino citizens. As our forces advance, I shall in like manner restore the other Philippine cities and provinces throughout the entire land.

It could be said that October 23, 1944, marked an independence day for the Filipino people, because on that day their civil government was restored to their elected president on the island of Leyte. The attack on Luzon followed, and when it was secure, on February 27, 1945, full constitutional government was restored to the Filipinos with appropriate ceremonies at Malacanan Palace in Manila. Then, on the date that had been named years before when commonwealth status was conferred on the Philippines, July 4, 1946, the Philippines became a sovereign country. This date, July 4, was celebrated in the Philippines and Independence Day until the administration of President Macapagal in 1962 when June 12 was designated as Independence Day and the Fourth of July renamed Filipino-American Friendship Day.

In World War II, there was no other example to equal the friendship and partnership of the Filipinos and the Americans in resisting the barbaric Japanese occupation of the Philippines. Despite wholesale executions of prisoners and civilians by Japanese troops—40 percent of POW's in Japanese hands were killed or died of disease and starvation, and more than 200,000 civilians were killed in Luzon alone—this resistance never wavered. A number of Americans had joined Filipino guerrilla units when the surrender of American forces seemed imminent; yet, not a single case of Filipinos turning over Americans to the Japanese has been recorded. When General MacArthur was en route to the first landing in retaking the Philippines, he ordered guerrilla units into concerted action. Later, he estimated that Filipino guerrillas has been equal to several divisions of Americans in retaking the Philippines.

Filipinos, who served in years past as members of the Filipino divisions in the American Army, as Philippine scouts, as members of the constabulary, and as guerrillas in World War II, continue to serve in our Armed Forces at the present. Many of them enlist while in the Philippines, serve in our Armed Forces, and later retire in the United States, thus strengthening the historic friendship between the Philippines and the United States.

It is my belief that these Filipinos who serve in our Armed Forces in peacetime, as well as in time of war, should be awarded American citizenship. I have introduced a bill, H.R. 737, to this effect, and regret that the leadership of the House of Representatives and the Senate have not seen fit to consider this legislation. I have also written to President Bush to urge his support. The Filipino people, many of whom now live in the United States, are an increasingly important addition to this great Nation of immigrants. Their qualities of devotion to family, church, and country, their work ethic, their love of freedom and opportunity for all, are a wholesome and important influence on

America, and I would like to see an expansion of citizenship awarded to them.

TRIBUTE TO MICHAEL J. CASTO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Michael J. Casto, of Providence, RI. While working at Roger Williams Park Zoo, in Providence, RI, as an employee for AAA Security Task Force, Michael J. Casto rose above and beyond the call of duty. As a result of Michael Casto's heroics, on Sunday, May 12, a life was saved.

While performing his regular rounds of duty at the zoo gate, Michael J. Casto acted quickly and heroically by administering CPR to an individual visiting the zoo. For his deeds he is being awarded an Outstanding Commendation Award by the American Police Hall of Fame and Museum. This award recognizes service, valor, or a special deed that merits the respect of the community.

In Michael J. Casto's 3 years with AAA Security Task Force, he has always stood out as an employee with a strong sense of responsibility and a desire to help other people in any way possible. Sergeant Casto was promoted to sergeant supervisor in May 1990. He was also name officer of the month for his superior security work in the past.

It is with great pleasure that I salute Sergeant Michael J. Casto for his heroic deed. I extend my best wishes for an equally successful future.

CONGRESSMAN KILDEE PAYS TRIBUTE TO BILLYE G. THOMPSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to a person who has devoted his life to the education of the youth in my hometown of Flint, MI. Billye G. Thompson is retiring after 31 years as an educator and administrator for the Flint Community Schools. Mr. Thompson was honored at a retirement dinner on June 7, 1991.

Billye Thompson graduated from A.M.&N. College—now named University of Arkansas at Pine Bluff—with a bachelor of science degree in mathematics and earned a master's degree in guidance and counseling from the University of Michigan. Mr. Thompson began his career in the Flint community schools in 1960 as a mathematics teacher at Emerson Junior High School. In 1967, he was assigned to Flint Central High School as a personalized curriculum program counselor. He then became one of the first staff specialists in the school district in 1968. This assignment was followed by promotions to assistant principal of Central High School in 1969 and deputy principal of Central High School in 1970. Billye Thompson was appointed principal of Bryant Junior High School in 1975 and will retire as principal of Northwestern High School after serving in that capacity since 1978.

Billye Thompson has also committed himself to the enhancement of his community by his involvement in several organizations. He has served as a member of the executive boards of the National Association for the Advancement of Colored People; the United Way; and the Urban League Board of Directors. He has held the position of president and secretary of Epsilon Upsilon Lambda Chapter of Alphi Phi Alpha fraternity; and served on the Armed Services academy screening committee; and the Flint Youth Leadership Institute. He has also been active in his church as a sunday school instructor, trustee and director.

Mr. Thompson has received the New Flint Human Relations Committee Outstanding Citizen Award in 1979 and the Jack and Jill Family of the Year Award in 1986. There is no question that Flint has been fortunate to have an educator as talented as Billye Thompson. He has been a positive influence on literally thousands of children passing through the doors of the schools where he has worked. His graduates have gone on to become doctors, lawyers and educators throughout this country. It was indeed fortuitous that Billye Thompson decided to move to Flint, MI in 1953. Little Rock, AR's loss has been Flint's gain.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise before the U.S. House of Representatives to pay tribute to Billye G. Thompson. He has embodied the true spirit of education and has left a legacy of excellence. His leaving will create a void in the Flint Community Schools that will not be filled for some time. I urge my colleagues to join me in wishing Billye G. Thompson a fruitful and prosperous retirement. I wish he and his beautiful wife, Laura Jean, a wonderful retirement as they pursue new challenges in their lives.

IN RECOGNITION AND HONOR OF ROBERT E. HAYES

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. REED. Mr. Speaker, I rise today to pay tribute to Robert E. Hayes on the occasion of his retirement and 45 years of dedication and service to the Rhode Island Carpenters Union. Bob carried on a tradition of service begun by his father, who was a union carpenter for over 50 years.

Bob began his career when he was initated as an apprentice in August 1946. He served the union in many positions and was elected president of the Rhode Island Carpenters District Council in 1960. He served in this position until his retirement with the exception of one term.

Bob should take great pride in his accomplishments as president of the union. During his 45 years of service, Bob has also served as an officer for many committees of the Carpenters Union. He also served on committees for the Rhode Island Fire Commission, the Irish Kings, and the Knights of Columbus. In addition to the large amounts of time he has given the union, Bob has also been very active in his community and with his family, wife Dolores, daughter Susan, son-in-law Dennis McCarten, and grandchildren Timmy, Beth, and Katie McCarten.

Mr. Speaker, I ask that you join me, his coworkers, family, and friends in congratulating Robert Hayes for his lifetime of work and dedication and in wishing him and his wife Dolores, health and happiness in the future.

YOUNG CHILD TAX CREDIT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. WOLF. Mr. Speaker, today we have reached majority support for H.R. 1277, the Tax Fairness for Families Act of 1991, and today, I am unveiling an additional family tax relief measure, a young child tax credit of $500 per child. The combination of these measures will provide significant tax relief to families with children. A companion to this young child tax credit measure was introduced last month by Senators GRASSLEY and COATS—S. 1013—who are also both championing an increase in the dependent deduction.

The family tax relief package we are setting out is a progressive measure that will provide substantial tax relief to all families in recognition of the important job they are doing in raising the next generation. The broad bipartisan support for providing family tax relief is an idea whose time has come. There is a healthy dose of common sense coming to the family policy debate and this broad new consensus should bode well for the gathering momentum for tax fairness for families.

This tax credit would be a $500 per child credit for all families with children under 5 whose earned income was under $50,000—the credit would start to phase out at $50,000. This would provide additional tax relief largely to families in the 15 percent tax bracket. This credit builds upon the "wee tot" credit passed last fall which provides up to approximately $355 to families with a child under 1 in a family that earns less than $20,000. This new credit would subsume and expand this credit in amount, age range available and income range available.

The credit is tied to earned income. The full amount of $500 per child is available once a family has earned income of $10,000. The amount remains $500 up to $50,000 income threshold and then starts to phase out and is unavailable at $60,000 of earned income. In combination with the earned income tax credit which will greatly expand over the next several years, this would give lower and middle income families more direct money in their pockets and provide incentives for working families.

This tax credit would complement the $3,500 dependent deduction by providing additional tax relief to families with young children and families whose income falls in the

median to below median levels. Those in the $10,000 to $50,000 income range would be provided with the greatest tax relief. For example, a family earning $30,000 with two children under 5 would pay approximately $1,400 dollars less in taxes under the combined measures of increasing the dependent deduction and increasing the young child tax credit—$1,000 tax credit for two children plus $405 increased dependent deduction for two children. This would be approximately $116 more a month for this family.

Together the $3,500 personal exemption and $500 young child tax credit would provide all families with young children approximately $1,000 of tax relief per child. For children 5 years old and over, the $3,500 dependent deduction would still provide substantial tax relief.

$3,500 dependent deduction=
$525 at 15 percent bracket.
$980 at 28 percent bracket.

The bill does not allow those already claiming the dependent care tax credit [DCTC] to also claim the young child tax credit. This "double dipping" provision is already part of the law with the "wee tot" credit. Taxpayers would be allowed to take whichever credit was greater. The bill does not change any of the provisions of the dependent care tax credit. However, by not allowing "double dipping" the costs of the credit will be substantially reduced.

FAMILY TAX FACTS

Present law	H.R. 1277	H.R. 1277 plus credit [1]
$322 (15%)	$525	$525 plus 500 credit equals $1,025
$602 (28%)	$980	[2] $980

[1] For families earning under $50,000.
[2] Most families in this bracket would not be eligible for additional credit.

By providing additional tax relief to families with young children under 5 years old, we will be allowing families with young children to get off to a good start at a time when the demands on parents are the greatest and their resources are most thinly stretched. By providing an increase in the dependent deduction to all families with children we will be starting an important journey back to tax fairness for familes who have been hit hardest by the dramatic erosion in the dependent deduction.

Families today deserve a break—and the best break Uncle Sam can provide Mom and Dad is a tax break targeted to families with children. These two measures combined will return young families to close to the status they had in the Tax Code in 1948. If we reinvest in families we will be amazed by the return on our investment—families have been and always will be the best Department of Health and Human Services and deserve our support. I invite my colleagues to join the effort for family tax relief and help get families back on track by cosponsoring both of these important family tax relief measures.

H.R. —

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

SECTION 1. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a taxpayer with 1 or more young qualifying children, the supplemental young child credit."

(b) SUPPLEMENTAL YOUNG CHILD CREDIT.—

(1) Subsection (b) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) SUPPLEMENTAL YOUNG CHILD CREDIT.—

"(A) IN GENERAL.—The term 'supplemental young child credit' means the applicable percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $10,000.

"(B) LIMITATION.—The amount of the supplemental child credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of

"(i) the applicable percentage of $10,000, over

"(ii) the applicable percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $50,000.

"(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the term 'applicable percentage' means 5 percent multiplied by the number of young qualifying children of the taxpayer for the taxable year.

"(D) YOUNG QUALIFYING CHILD.—For purposes of this section, the term 'young qualifying child' means any qualifying child who has not attained age 5 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends. If the taxpayer elects to take a child into account under the preceding sentence, such child shall not be treated as a qualifying individual under section 21."

(2) Paragraph (a) of section 32(b) of such Code is amended by striking subparagraph (D).

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 32(f) of such Code is amended by adding at the end thereof the following new sentence: "Separate tables shall be prescribed for purposes of determining the amount of the supplemental young child credit."

(2) Subsection (i) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of any taxable year beginning after 1992, paragraph (1) shall also apply to the $10,000 amounts and the $50,000 amount set forth in subsection (b)(3); except that 'calendar year 1990' shall be substituted for 'calendar year 1989' in subparagraph (B) of section 1(f)(3)."

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1991.

INTRODUCING BEST-SUPPORTED BALANCED BUDGET AMENDMENT LEGISLATION

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SMITH of Oregon. Mr. Speaker, as we approach the homestretch of the 1991 fiscal year, our Nation is racing toward a record $318 billion budgetary shortfall. That's why 251 of my House colleagues are joining me tomorrow as original cosponsors in introducing the best-supported balanced budget amendment legislation. This measure is very similar to legislation that I helped to author during the 101st Congress, which, as you know, had 250 cosponsors and fell only seven votes short of the two-thirds majority needed for passage.

Mr. Speaker, the numbers don't lie. The Gross interest on the Federal debt has increased by 95 percent—in real dollar terms—over the past decade. The national debt has more than tripled over the same time period. Moreover, the Federal Government has run deficits for 21 years in a row and for 52 of the last 60 years. If I operated my household like the Federal Government, I would be out on the street.

The proposed amendment being introduced tomorrow meets the constitutional standards of simplicity and is supported by an overwhelming majority of Americans. Authors of other proposed balanced budget amendments support my legislation.

Mr. Speaker, I invite you and every House Member to join me, the bill's three additional authors, key supporters from the other body, and various public interest groups in room 210 of the Cannon Building tomorrow at 3 o'clock to announce introduction of legislation that will finally help to restore sanity to the budget process.

Let's act with the courage of Joshua to pass this legislation, send it to the States, and bring us into the long-promised land of a balanced budget.

BUSH ADMINISTRATION'S REAUTHORIZATION BILL FOR HIGHER EDUCATION ACT OF 1965

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GOODLING. Mr. Speaker, I am introducing, by request, the administration's bill on the reauthorization of the Higher Education Act of 1965. The Higher Education Act expires this September 30, 1991, and must be reauthorized. The programs under the act provide funding for student financial assistance to millions of American students in postsecondary institutions across this country.

Although I have reservations and concerns regarding a number of the provisions contained in this bill including those limiting grant eligibility for certain groups of students in currently eligible income levels, I am pleased the administration has brought such a timely bill before us. Given the magnitude of the programs contained in the Higher Education Act, it is especially important the administration be a partner in this reauthorization.

Currently, the Education and Labor Committee is holding hearings and gathering information for ideas for the difficult decisions we must make for these programs. Since authority for programs under the Higher Education Act expires this September, we must reauthorize these programs in order to ensure continued support and access for students to postsecondary education. I am certain the admin-

istration's bill will help us in making informed decisions.

INCREASE MOTORCYCLE SAFETY EDUCATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to recognize the members of ABATE [American Bikers Aimed Towards Education] based in New York. The organization is dedicated to improving driver education for motorcyclists and educating other drivers about cyclists.

Presently, there are 190,000 motorcyclists registered in New York State, which ranks 12th in the Nation in motorcycle ridership. The road hazards faced by motorcyclists are unique and extremely dangerous. New York also has one of the highest rates of motorcycle accidents and fatalities. I commend the members of ABATE for their efforts to increase public awareness of the need for additional motorcyclists education courses. The New York chapter of ABATE is working to accomplish this through the passage of the rider education bill, a safety and education bill which would mandate a 20-hour course, funded by a $5 increase in the cost of motorcycle registration. This State legislation would give cyclists much increased educational safety programming at nominal costs.

Mr. Speaker, I urge my colleagues to support legislation to increase cyclist awareness, reduce motorcycle accidents, and save motorists' lives.

TRIBUTE TO REV. KARL E. KNISELEY, D.D.

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MOORHEAD. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives the 50th anniversary of the ordination of the Reverend Karl E. Kniseley, D.D.

Reverend Kniseley was born in Port Royal, PA, in 1917. He attended Susquehanna University, earning his bachelor of arts degree in 1938 and then went on to the Lutheran Theological Seminary in Philadelphia, where he received a bachelor of divinity degree. He later returned to Susquehanna University and earned his doctorate of divinity degree. In 1941 he was ordained by the Pittsburgh Synod of the United Lutheran Church. Through the Second World War, he served as a chaplain in the U.S. Army.

He came to California in 1954 and became pastor at the First Lutheran Church of Glendale. After 25 years at the First Lutheran Church and 40 years of pastorates, he retired in 1979. But after his pastoral retirement, the reverend continues to be active in the community and the church.

Reverend Kniseley served as the national chaplain of the American Legion, as chaplain of the board of regents of Forest Lawn and as the Glendale Police Department chaplain. He has also dedicated his time and knowledge to the Glendale Red Cross, as a member of the board, and to the Boy Scouts of America, as a member of the Verdugo Hills Executive Committee. The wealth of all his accomplishments is far too extensive to list here.

In 1939, Reverend Kniseley married Margaret "Billie" Dunkle. This year they celebrate their 52d anniversary. Karl and Billie are especially proud of their four sons, of which three have earned doctorate degrees and the fourth is a major in the U.S. Air Force.

It is my great pleasure to congratulate Karl, whom I consider a dear friend, to thank him for his great contributions to our community, and to wish him the best of health and happiness in the years ahead.

HONORING PHILIP PINES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GILMAN. Mr. Speaker, it is with great pleasure that I rise today to congratulate an exceptional resident of my home district upon his election and upcoming induction to the National Hall of Fame of the Trotter.

Phil Pines will be inducted into the Writer's Corner of the Hall of Fame in Goshen, NY, on July 7, 1991. I can think of no one more deserving of this honor. As a writer, administrator, and guiding spirit for the sport of harness racing, his contributions to the sport are innumerable. Phil has been associated with the Trotting Museum and the Hall of Fame of the Trotter since its opening in 1951, and was appointed its director in 1963. He has also served as a past president of The United States Harness Writers Association.

I have had the pleasure of working with and knowing Phil Pines for many years. For Phil, trotting is not as much a sport as it is a passion. His words have left a timeless record of the sport's grace and beauty for contemporary as well as future generations. In his 40 years with the Trotting Museum, Phil has published two definitive books on the subject, The Complete Book of Harness Racing, and Currier and Ives: Trotting. Twice every week, Phil broadcasts a radio program which is heard over a network of stations. He also writes a newspaper column that has been syndicated for over a dozen years. Selections from this column have been published by the Trotting Museum in two selections entitled "Tales of Whoa," and "More Tales of Whoa."

By no means is the Trotter's Hall of Fame the first institution to recognize Phil's renowed accomplishments. To mention just a few, Phil has received several John Harvey awards in recognition for writing and broadcasting about harness racing, and the Golden Pen Award for outstanding promotional work for the sport. He has also received the Harness Youth Foundation's Service to Youth Award. Moreover, this is the second time in a year that Phil has been voted into the hall of fame; last year he was inducted into the Writer's Corner of the Hall of Fame of the U.S. Harness Writer's Association.

While Phil has been busy receiving all of this national recognition, he has remained active in his community. Phil has served as president of the Goshen Chamber of Commerce, of the Goshen Rotary, and the Orange County Museum and Art Organization. Additionally, he serves as a lay preacher in the Goshen Presbyterian Church.

Mr. Speaker, I would like to share with our colleagues a sample of Phil's writing:

> "Harness racing did not begin suddenly. It wasn't invented. It evolved quietly, when America was very young. Farmers, driving trotters on country lanes, challenged one another with a nod of the head which led to a "brush on the road"—a race for a short distance at top speed. That same horse might also pull a plow, take the family to church on a Sunday morning or be raced at a country fair on a Saturday afternoon."

In this article, which appeared in Sports Illustrated magazine on July 17, 1986, Phil Pines has given us not only a picture of a sport; he has given us an intimate picture of America.

I am personally pleased with Phil's long-overdue induction into the hall of fame, for Phil has always been a close and loyal friend. He has never hesitated to be helpful whenever my staff or I have called upon him for advice or assistance in historic matters. Quite often, dignitaries from the administration have visited the Goshen Historic Track, Museum, and Hall of Fame and they have all reported to me that Phil Pines has always rolled out the red carpet for them.

Mr. Speaker, I invite our colleagues to join in saluting this accomplished writer, administrator, citizen, and friend. The sport of harness racing, as well as the 22d District of New York, is all the richer for his presence and contributions.

TRIBUTE TO DONALD FLOYD

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to Donald Floyd.

Donald Scott Floyd, a retired Air Force lieutenant colonel and Raytheon Corp. executive, died of a heart attack at the age of 67 on May 2, 1991.

Mr. Floyd had a distinguished career in the Air Force, in the Government following his retirement from the Air Force, and with Raytheon. He worked closely with the Members and committees of Congress from 1966 to 1970 in the Office of the Secretary of the Air Force, from 1972 through 1976 in the Congressional Affairs Office of the Secretary of Defense, and from 1979 through 1990 in the Congressional Relations Office of Raytheon in Alexandria, VA.

He served with the Army Air Forces in Europe during World War II and was stationed in Belgium and Germany. He was in the Air National Guard from 1945 to 1949. He received

the Legion of Merit, the Air Medal and the Air Force Commendation Medal while serving in the Air Force.

He returned to Belgium in 1976 and served until 1979 as the head of the Planning Section, Defense Support Division, NATO International Staff.

A native of Quincy, MA, Mr. Floyd received a bachelor's degree in business and engineering administration from the Massachusetts Institute of Technology in 1948 and a master's degree in business administration from George Washington University in 1963.

He was a member of the Capitol Hill Club, Theta Chi social fraternity, the Army-Navy Country Club, and the Pentagon Officers Athletic Association.

Survivors include his wife, Evelyn Barry Floyd of Alexandria, VA; a daughter, Sherry Lynn Floyd of Washington, DC; two sons, David Stephen Floyd of Alexandria, VA, and Lawrence Barry Floyd of Merrimack, NH; and three grandchildren, Jessica, Naomi, and Hilary.

TRIBUTE TO JULIE FITZGERALD TO MARK 50 YEARS OF SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today I am privileged to acknowledge the accomplishments of a woman who has faced every challenge in her life with energy and perseverance. Ms. Julie Fitzgerald has reached the milestone of a half century of civil service, and she has arrived with her character and smile intact. Through her ambition and resilience she has risen through the ranks, from her first position in 1941 in the Department of the Army to her present-day post as chief of staffing at Westover Air Force Base. Despite her numerous job displacements within the Department of Defense, she was able to adapt and perform with excellence in every post.

Ms. Fitzgerald's ambition has not been self-serving. It was due, in part, to her instrumental role in countering staff reductions at Westover that many employees were spared their jobs. Her caring and wonderful character have enriched the lives of all her friends and coworkers. Julie is highly respected by her coworkers for her vast, technical knowledge of the ever-changing military industry. Yet, it is Julie's persistent smile and her unique ability to retain her optimism that has most characterized her continuing dedication to civil service.

It is particularly rewarding to honor a woman who has repeatedly proven herself to be an invaluable worker. Four performance awards, one Sustained Superior Performance Award, and one Notable Achievements Award have all been bestowed upon Julie in the last 5 years. What is even a greater cause for celebration is that this does not mark the end of a remarkable career but only the beginning of many more productive years. I ask all my colleagues to join me in saluting Julie Fitzgerald for her distinguished career, and to wish her well as she continues her tradition of service.

H.R. 1

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SCHUMER. Mr. Speaker, today I rise in support of the Brooks-Fish substitute of H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991. This bill is a significant improvement over the original bill, because it makes it unequivocally clear that employment quotas are every bit as objectionable as employment discrimination.

The distinguished chairman and ranking minority member of the Judiciary Committee wisely took the initiative to quell the misleading and divisive debate over quotas by including a new section 111, which expressly prohibits the use of numerical quotas based upon race, color, religion, sex or national origin.

Some of the debate on the bill has focused upon certain language in section 111 which might, arguably, appear to permit quotas when the job applicant in question is otherwise qualified for employment. As Chairman BROOKS has repeatedly stated, and as detailed in the legislative history of the bill inserted in the RECORD by Chairman BROOKS and Representative FISH, this was clearly not the intent of the drafters. Nothing in this bill should be read to approve racially-based affirmative action programs or plans which, when implemented by an employer voluntarily or otherwise, operate as the functional equivalent of quotas.

It is my hope that the Senate will act promptly and favorably on similar legislation and the President will see the folly of persisting in labeling a piece of legislation which expressly outlaws quotas as a quota bill.

NEW PERSONNEL SYSTEM FOR THE DEFENSE LANGUAGE INSTITUTE

HON. LEON B. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. PANETTA. Mr. Speaker, on April 10, 1991, I introduced in the House of Representatives a bill to authorize the Secretary of Defense to prescribe regulations to establish a college-style personnel system at the Defense Language Institute Foreign Language Center [DLI].

H.R. 1685 was referred jointly to the Post Office and Civil Service Committee and to the Committee on Armed Services. I want to take the opportunity today to urge my colleagues to examine this long-needed legislation and to join me as sponsors of it. I would also urge the committee to expedite their consideration of the bill, as DLI's employees are most anxious that it pass the Congress this year.

Mr. Speaker, on the day I introduced H.R. 1685, I described at some length the importance of this bill to the DLI community and to the Defense Department's ability to teach foreign languages to its personnel. Following up on that statement, today I would like to enter into the RECORD the following explanatory notes on the legislation, prepared at my request by the Department of Defense for the benefit of all interested parties. As I noted in April, both the Department of Defense and the National Federation of Federal Employees assisted me in drafting this legislation. I intend these valuable notes to be an integral part of the bill's legislative history, incorporating as they do several explanations of policy and commitments agreed upon by both the Department of Defense and the National Federation of Federal Employees. The text of the notes follows:

EXPLANATORY NOTES

BACKGROUND TO THE PROBLEM

The Defense Language Institute (DLI) is an academically accredited institution of higher education operated for the Department of Defense by the Department of Army through its Training & Doctrine Command. As a part of the Federal Government, it is administered under normal military and civil service procedures. DLI currently trains approximately 5,000 students per year from all four military services. For academic and administrative purposes, it is organized into eight separate language schools with approximately 30 language departments. Each school is headed by a Dean and each department by a chairperson. During the past decade, the increased need for military linguists has resulted in a significant increase in DLI's civilian faculty which has nearly doubled to its current workforce of approximately 90 instructional and academic support personnel. DLI recuits nation wide (and in some cases, world wide) for qualified language instructors to meet the needs of the services. The primary prerequisite to faculty hiring is language fluency, with a secondary requirement of a knowledge of foreign language teaching methodology and techniques. Due to the need for instructors in languages essential to the miliary program (e.g., Russian, Korean, Arabic) all instructors hired are fluent in the "target" language, but most lack both experience and professional training in techniques and problems of second language acquisition.

While in-service training classes are provided for new instructors, the language instruction DLI provides should be graduating a higher number of proficient military linguists. While numerous factors contribute to this shortfall, a major contributor to the problem is the civilian personnel management program as it operates under the current civil service system. DLI's faculty are currently selected, appointed, classified and administered under Federal Personnel provisions of Title 5 and Office of Personnel Management (OPM) requirements. Thus, the positions must be classified under the General Schedule, and faculty members recruited for and compensated on the GS salary range under pay administration rules. Under these rules, it is difficult to establish a professional academic atmosphere and climate. The civil service "rank-in-position" system with its prescribed titling practices provides little or no flexibility for rewarding of or recognizing individual qualifications and contributions as is done in standard academic settings. The current system also places limits on the amount of professional training which can be given to correct identified deficiencies.

PROPOSED SOLUTION

The proposed legislation would authorize the Secretary of Defense to prescribe regula-

tions that would establish a college style personnel structure at DLI. He would be permitted to establish a faculty personnel system following academic models rather than the more administratively position oriented structure for Federal employment. He could establish a flexible compensation structure comparable to two-year college systems and those of similar Federal institutions. The mandate that no salary could exceed that of the entry rate at Executive Level V would be retained. The Secretary of Defense could establish a system of providing training enabling the faculty to become fully proficient in the principles, theories and techniques of second language acquisition. A procedure for granting tenure and of terminating nontenured personnel that would follow the example of civilian educational institutions would also be developed. He would be authorized to establish a flexible leave program which would be geared to a teaching environment, and provide means for faculty members to pursue professional level training and development. A similar system has been authorized for other Federal institutions and programs: the U.S. Naval Academy by section 7478 of title 10; the U.S. Naval Postgraduate School by section 7044 of title 10; and the U.S. Coast Guard by section 186 of title 14. The bill, if enacted, would permit the establishment of an educational milieu that would attract outstanding foreign language educators, and facilitate educating a cadre of well qualified linguists to provide world wide services to the United States of America.

CHAPTERS REQUIRING EXEMPTION FROM TITLE V OF U.S. CODE

Chapter	Chapter Title & Sectional Analysis	Reason for exemption
33	Examination, Selection & Placement: Covers competitive service procedures on subject; Rule 6.3 allows OPM to set procedures (OPM has done this) for filling Excepted Service positions.	Need to be able to set own examination criteria and selection and placement procedures for faculty and academic support staff.
41	Training: Includes provisions which preclude the reimbursement in employees for training in non-government facilities which lead to an academic degree.	Need to allow for training leading to a degree—this is essential to the faculty professionalization program.
51	Classification: Establishes 13 "GS" levels; directs OPM to set GS classification standards; OPM standards developed are applicable to both competitive and excepted service positions.	Need to develop faculty levels in lieu of GS levels; need to establish faculty level classification criteria.
53	Pay Rates & Systems: Establishes pay schedules; Subch. III covers ". . . employees, position, etc." subject to Chapter 51 (classification).	Need to develop faculty and staff salary comparable to 2 year colleges.
55	Pay Administration: Sub V. Premium Pay; Establishes authority for overtime pay, and compensatory time off.	Need to establish academic work environment and expectations (linked to Chapter 61).
61	Hours of Work: Establishes a 40-hours work week and requires scheduled tour of duty.	Needed to allow flexibility in establishing academic tours of duty.

POSITION PAPER

1. Context: The Defense Language Institute (DLI) is a professionally accredited institution of higher education operated for the Department of Defense by the Department of the Army's Training & Doctrine Command. As an Army entity, it is administered in accordance with normal military and civil service procedures. DLI is accredited by the Accrediting Association of Schools and Colleges. As DLI is not yet a degree-granting institution, it is recognized under the jurisidiction of the Junior commission as a specialized post-secondary institution.

2. Organization: DLI, under an Army Commandant, is organized for academic purposes into eight resident, foreign language schools with over 30 language departments under the schools. The schools are organized into language teaching departments.

a. School: A school is established to group languages with a common linguistic or cultural heritage. Where the student enrollment is high enough, schools may consist of only one language (e.g., the Korean School). The schools are organized into language-teaching departments.

b. Language-Teaching Department: A Language Department is normally responsible for resident instruction in a single language. Multi-Language Departments are responsible for teaching lower enrollment languages which are linguistically, geographically and/or culturally linked.

c. Current Schools and Departments:

Russian I School: Russian I-A Dept; Russian I-B Dept; Russian I-C Dept; Russian I-D Dept; and Russian I-E Dept.

Russian II School: Russian II-A Dept; Russian II-B Dept; Russian II-C Dept; Russian II-D Dept; and Russian II-E Dept.

Slavic School: Russian A Dept; Russian B Dept; Czech A Dept; and Czech B Dept.

Middle East School: Arabic A Dept; Arabic B Dept; Arabic C Dept; and Multi-Language Dept (Greek, Hebrew, Turkish).

Asian School: Chinese Dept; Persian Dept; and Multi-Language Dept (Japanese, Tagalog, Thai, Vietnamese).

Korean School: Korean A Dept; Korean B Dept; Korean C Dept; and Korean D Dept.

Romance School: Spanish A Dept; Spanish B Dept; Spanish C Dept; and Multi-Language Dept (Dutch, French, Italian, Portuguese).

Central European School: German A Dept; German B Dept; German C Dept; and Polish.

3. Academic Operation: The administrative officers of the Institute have broad responsibilities for establishing policies, goals, and objectives. They maintain the physical plant as well as administer the budgets through a joint military and civilian staff. The faculty and academic staff are fully responsible for the detailed development and implemention of all instructional activities.

4. Faculty: The civilian faculty and academic staff are civic service appointees with salary levels established by a General Schedule grade which is not necessarily related to academic qualifications. The current full-time faculty and academic staff consists of approximately 900 civilian members. Faculty members are hired primarily for their foreign language ability. Academic and teaching qualifications are an important secondary consideration.

5. Faculty Personnel Practices: DLI civilian faculty and academic staff are currently appointed under a Schedule A excepted service authority (as contrasted to the competitive service system), following procedures established by the Office of Personnel Management (OPM). This authority has been granted to DLI because of the language fluency requirements of our positions. OPM is unable to test for qualifying proficiencies, and periodically the DLI must hire non-citizens to attain the required levels of proficiencies; non-citizens may not be hired into the competitive service. Positions are classified in accordance with published OPM standards, with the attendant prescribed General Schedule (GS) and General Merit (GM) grades ranging from GS 05 to GM 15. DLI recruits nation and world wide, determines applicants' qualifications, and currently maintains registers of qualified candidates in 21 separate languages and dialects (inactive applicant files are maintained in 10 additional languages).

6. Problems: The existing civil service personnel system, which is centered on a rank in position concept, has not been adequate to meet DLI needs in the past. The increase in our nation's foreign language requirements has further highlighted systemic shortcomings in the system. Improved technology has made more of the world's communications available while increased military and paramilitary conflicts around the globe (as well as recent treaty initiatives) have made exploitation of these communications critical to our nation's security. As a result, we have seen over the last decade a doubling of foreign language enrollments and an even greater increase in student graduation requirements. The flexibility and the incentives needed to meet these challenges are not available in the current personnel system. Some basic problems associated with the current system are:

a. Classification System: As in all conventional civil service appointments, grade and duties are tied to a specific, functional position which is relatively narrowly defined. In a stable environment this causes little difficulty. However, rapidly changing existing programs and the development of new ones demand a high degree of flexibility in assignment of duties. This flexibility is not present in the current system. The Institute has experience in testing and qualifying faculty, and should have the management authority to establish grading criteria for such positions. Current classification standards are inadequate. DLI is actively moving to become a comprehensive, multi-disciplinary center of excellence. Faculty assignment is critically important in this evolution. Recognition and reward for faculty accomplishments must be based on total performance of required duties which are not easily related to a specific grade level. In addition, as with any academic institute, appropriate, specific higher degree qualifications are essential and must be incorporated into the grading system.

b. Professionalization: Central to the success of any educational institution is a highly qualified faculty. The field of language teaching calls for expertise in two independent areas—foreign language and language-teaching methodologies. The DLI faculty and staff are eminently qualified in the former area. Over 80 percent of the faculty are native speakers of the language they teach. Because of the high language proficiency levels required of our graduates, we must continue to emphasize native speaking ability over teaching proficiency as an entry level requirement. However, recruitment of fluent foreign language speakers results in a faculty with limited formal preparation in instructional techniques. The current faculty training program has been limited to basic training in teaching methodology. Limited tuition assistance for formal education has resulted in a faculty only minimally trained in modern language-teaching methods. The Institute demands faculty with appropriate academic credentials: however current law prohibits government contribution for specific degree attainment and the advertisement of such a policy as a recruitment incentive.

7. Proposed Actions: To correct these shortcomings, the DLI Academic Personnel Management System will be restructured to align it more closely with traditional institutions of higher education and other federal academic institutions.

a. Classification and Qualification System: The first critical element of the proposed system would be a rank-in-person classifica-

tion and qualification system based on the standard academic model. The goal of the proposed personnel management system is to allow the faculty to function over a wide spectrum of responsibilities from classroom instruction to staff support. A faculty member qualified by education and experience for a specific academic rank would perform the full spectrum of duties for which he/she is qualified. Given the dynamic nature of the environment, this could mean assignments in teaching, supervision, or academic support, depending on mission requirements.

b. Professionalization & Development: Correcting the deficiency in classification and qualifications will require a faculty training program. The program is three-phased: preservice enhancement, in-service remedial, and graduate professional development. Prior to beginning teaching, every teacher will be required to pass an instructor certification program taught by the internal Faculty Training Division. Once an instructor is certified, additional in-service training will be provided by faculty trainers. This will develop or enhance specific skills, e.g., use of the classroom computers, or test-writing procedures. Finally, formal graduate education will be required to fully qualify the faculty as professional educators. This program should provide the opportunity for faculty members to pursue degrees from accredited institutions and would include part-time, tuition-aided instruction for about 20 percent of the faculty and academic staff annually. Courses taken would lead to a Master's in Foreign Language Teaching or other appropriate graduate level degrees. Additionally, up to one percent of the faculty and academic staff per year will be fully funded to pursue graduate degrees in fields which would contribute to DLI's academic mission.

PROPOSED POLICY

The specific policies and procedures regarding the proposed rank-in-person structure follow:

1. Policy: This policy statement applies to all civilian members of the faculty and academic staff of the Defense Language Institute currently employed in the 1700 and 1040 series Schedule A excepted service positions.

2. Status of Civilian Members of the Faculty and Academic Staff: Civilian members of the faculty and academic staff shall be appointed by the Commandant, Defense Language Institute under provisions of the proposed law, and applicable regulations issued by the Office of Personnel Management (OPM), the Department of Defense (DOD), and the Department of the Army (DA).

3. Academic Session: The academic session is of 12-month duration. During this period, all faculty and academic staff are employed in tasks assigned by the commandant, except when absent on approved earned annual leave, leave without pay, or in a long-term training or education program.

4. Academic Ranks: Academic Ranks will be established. The ranks will be based on the educational accomplishment, professional experience, instructional experience, and other related performance and accomplishment criteria. The academic ranks that have been identified for use at the Defense Language Institute are: assistant instructor, instructor, senior instructor, assistant professor, associate professor, professor, senior administrative faculty, and chancellor.

a. Assistant instructor: This is a nontenured, developmental position. The faculty member occupying this position will perform assigned tasks under close supervision and guidance by colleagues of higher academic rank and will be required to satisfactorily complete in-house training courses and university courses in order to advance to the next academic rank.

b. Instructor: This is a non-tenured or a tenured position. The faculty member occupying this position will perform assigned tasks under the supervision and guidance of colleagues of higher academic ranks. The instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate the basic course components.

c. Senior instructor: This is a tenured position. The faculty member occupying this position will perform assigned tasks with minimal supervision. The senior instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate basic course components.

d. Assistant professor: This is a nontenured or tenured position for both faculty and academic support personnel.

(1.) Faculty Positions: The faculty member holding the rank of Assistant Professor will independently teach all levels of the foreign language courses. Duties will include the full range of instructional activities.

(2.) Academic Support Positions: The academician holding the rank of Assistant Professor will work in fields such as test development, curriculum, educational technology and/or research.

e. Associate professor: This is a nontenured or tenured position for both faculty and academic support personnel. This is the first academic rank for supervisory and/or managerial responsibility.

(1.) The faculty member holding the rank of Associate Professor will independently teach all levels of the foreign language training courses. The associate professor will conduct area study classes within the assigned school and language-specific, in-house faculty training and will serve as a professional role model for other members of the faculty. In addition, the associate professor will be called upon to teach other faculty in the areas of test and curriculum development.

(2.) The academician holding the rank of Associate Professor will work in fields such as tests and measurements, curriculum, instructional system design, educational technology and/or research, developing course materials, determining a course training plan, training faculty members on the use of the course materials, evaluating student progress, evaluating instruction to improve the training, and recommending changes to courses to meet needs.

f. Professor: This is normally a tenured position. The faculty member or academician occupying this position will perform all duties as described at the associate professor level and will participate in scholarly and administrative activities at a DLI level and in professional activities external to DLI. The professor is accountable for all aspects of instruction and curriculum with national recognition in a specialized field such as teaching methodology, testing, program evaluation, area studies, educational technology or education research.

g. Senior administrative faculty: The employee occupying this position will have the ability to administer educational systems and programs in matters relating to executive of policies, supervision of all employees (professional and non-professional), development of education philosophy, resource planning and reports, revision of courses of study to meet changing needs, procurement of instructional aids, materials and equipment, planning for use of facilities and developing facility requirements.

h. Chancellor: As the senior academic administrator of the Defense Language Institute, incumbent will have overall responsibility for establishment and review of academic programs, policies, and budgets for the largest foreign language instructional program in the Free World, generating 10 percent of all postsecondary foreign language instructional hours taught each year in the U.S. He or she must oversee development of manpower and budget requirements, resource allocations, work force planning, and contracting for services.

6. Appointment Criteria/Promotion Criteria: The criteria for initial appointment, conversion to tenure track and promotion will follow the qualification guidelines established for the aforementioned academic ranks, and placement procedures similar to other federal academic institutes.

7. Salary: The salary of all newly appointed civilian members of the faculty or academic staff will be based on their qualifications for the position being filled. The salary for all new appointees will normally be set at the entry rate for their academic rank with provisions for advanced initial-hire rates based on superior qualifications. The procedures for recommendations for yearly cost of living adjustments and salary increases for faculty and academic staff personnel and will be patterned on those established for comparable federal and academic institutes.

8. Faculty and Academic Staff Professionalization: DLI's goal will be to expand its faculty and academic staff professionalization program to provide educational assistance to the faculty and academic staff in their pursuit of advanced degrees in foreign language teaching. This expansion will provide tuition assistance for courses to correct specific training weaknesses. This aid will be provided in two programs. The first will be partial tuition assistance for not more than 20 percent of the faculty and academic staff to attend courses offered in the local area which would lead to advanced degrees. The second program provides fully-funded graduate education for a highly select group of faculty and academic staff. This program would be limited to one percent of the faculty and academic staff annually. Participants would be selected based on their potential for significant teaching contributions as well as demonstrated abilities and skills. DLI would require these individuals to sign a contract agreeing to continue teaching at the Institute for three years for each year of fully-funded training. If an employee chose to depart prior to this time, he/she would be required to reimburse the government for the cost of the education.

9. Tenure of Employment: Normally, based on projected need and funding levels, new faculty and academic support personnel will be initially given a three-year non-tenured appointment. Procedures governing employee rights, benefits and entitlements during this period of time will basically follow those prescribed by the OPM for term appointments. Based on projected need and funding levels, conversion to tenure track permanent appointments will be conferred upon members of the faculty and academic staff as recognition of continuing significant contributions to the programs of the Institute. Generally the following rules apply:

a. Assistant Instructor: The initial appointment is for not more than three years.

An assistant instructor not selected for higher academic rank by the end of four years of service at the Institute will be reappointed only in exceptional cases as deemed appropriate by the commandant.

b. Instructor: The initial appointment is for not more than three years; reappointment at this rank normally is with tenure. An instructor promoted from within the Institute is usually promoted with permanent tenure.

c. Senior Instructor: The appointment into this position will be from the current faculty at the Institute. There will be no initial hire into this academic rank. This category will be a permanent tenured position for those exceptional employees at the instructor level who cannot progress into the assistant professor level, but who make significant contributions in the teaching area. There will be no requirement for promotion from this rank.

d. Assistant Professor: An assistant professor promoted from within the Institute is promoted with permanent tenure. An initial appointment to civilian faculty at the rank of assistant professor is for no more than three years; reappointment at this rank normally is with tenure.

e. Associate Professor: An associated professor promoted from within the Institute is promoted with permanent tenure. An initial appointment at the associate professor rank may be with tenure. If initial appointment is without tenure, reappointment at this rank normally is with tenure.

f. Professor: A professor appointed from the Institute is promoted with permanent tenure. In the case of an initial appointment to civilian faculty at the rank of professor, the initial appointment will normally not be for more than three years; in exceptional cases, initial appointment may be made with tenure. If initial appointment is for three years, reappointment at this rank normally is with tenure.

g. Senior Administrative Faculty: Same as f. above.

h. Chancellor: Same as f. above.

10. Evaluation & Recognition: The work performance and contributions of all faculty and academic support personnel will be appraised on an annual basis. The results of the appraisal will be used as the basis for training, rewarding, reassigning, promoting and removing employees. Appraisal and recognition procedures, closely aligned to comparable academic institutes will be used.

11. Termination:

a. Reduction-in-force: A lack of federal funds, change in mission, workload, or organization, or other similar and compelling reasons may require a reduction in civilian faculty and academic staff. In such an event, and where possible, 120 days notice of separation through Reduction in Force procedures will be given to the individual(s) affected. At least 60 days' notice will be given.

b. Nonreappointment: The commandant has responsibility for determining whether a civilian faculty or academic staff member's appointment will be renewed. In such case, the department or organization will notify the member affected on the following schedule:

(1) First Appointment Year of Service: If the appointment terminates during or at the end of the first year, notice of nonreappointment will be given at least 7 days in advance of termination.

(2) Second Appointment Year of Service: If the appointment terminates during or at the end of the second appointment year, notice of nonreappointment will be given at least 30 days in advance of termination.

(3) Third or Fourth Appointment Year of Service: Notice of nonreappointment will be given at least 60 days in advance.

c. Separation for Cause: Any member of the faculty or academic staff may be separated for reason of misconduct or inefficiency irrespective of tenure or length of appointment. Such separation will be in accordance with applicable civil service and Department of the Army regulations.

d. Resignation: A civilian member of the faculty or academic staff is expected to give at least 60 days notice of intention to resign.

12. Effective Date of Personnel Actions: Promotions and pay step increases will normally be effected annually. Initial appointments may be made at any time commensurate with Institution requirements.

13. Retirement, Leave, and Health and Life Insurance Benefits: Faculty and academic staff are entitled to civil service benefits such as holidays, leave, retirement and health and life insurance on the same basis as employees of the competitive civil service. The benefits are set forth in detail in the Federal Personnel Manual and the Department of the Army regulations.

14. Academic Work Schedules: Academic work schedules, modeled after comparable work schedules in other federal institutes of higher education, will be developed.

15. Conversion: [Protection of Rights] Conversion to the Academic Personnel Management System established by law will be optional for all civilian faculty and academic staff members hired prior to the implementation of this policy. Those faculty and academic staff members who elect conversion will retain their current salary in the new structure. Members of the faculty and academic staff who do not elect conversion will retain all existing civil service rights and privileges.

NEW PERSONNEL SYSTEM

Cost Estimate: New Personnel System: Section 2191–2193.

A. Background:

The primary justification for the New Personnel System is the need to improve student proficiency results. This can be accomplished by either extending the current instructional process or improving the quality of instruction offered. In choosing between these options, we have selected the latter course of action because of the cost avoidance benefits it offers. Improved quality to be gained by the implementation of NPS will result in additional costs for: professionalization of the faculty and academic staff; revision of salaries; and new administrative requirements. In calculating all costs, the current faculty and academic staff strength of 906 is assumed to remain constant. All computations have been updated and expressed in FY 89 constant dollars.

B. Cost Avoidance Savings:

1. The most important benefit of the New Personnel System is increased student proficiency. While the benefits of increased mission capability are not directly measurable in dollar terms, the need to increase student proficiency clearly exists. The most common suggestion other than the New Personnel System, is to increase course lengths by language categories to obtain increased proficiency by extending time on task. Other government language schools follow this concept and have many courses that are longer than DLI's. To obtain the GOSC-mandated 80 percent proficiency without implementing the New Personnel System, courses must be extended. DLI's best estimate for the required extension of courses, by category, is listed below.

Language category	Student load	Cost per Stu Wk	Course length increase	Total
I	315	$348.81	7	$769,126
II	272	348.81	12	1,138,516
III	1,823	348.81	23	14,625,254
IV	903	348.81	[1] 38	11,969,066
Total annual cost				28,501,962

[1] The General Officer Steering Committee recently approved extending the length of the Arabic Basic Course to 63 weeks as a test for potential implementation of extensions for all Category IV Languages.

Note.—This represents a 16-week increase.

2. Academic Attrition Rates: The improvement in faculty qualifications will also impact on the number of students who attrit from courses due to their inability to meet academic requirements. Upon full implementation of the New Personnel System, it is anticipated that the current attrition rate will be reduced by 2%. Cost avoidance savings for this reduction are reflected below:

	Current year (15.9% academic attrition)	Implementation (13.9% academic attrition)
Cost/Stu Wk for Av Crs	$348.81	$348.81
Student Loss/Yr	520	455
	[1] 16	[1] 16
Total attrition cost	2,902,099	2,539,377

[1] Based on historical factor of students attriting at the 16th week.

Potential Cost Avoidance Savings: $2,902,099 − $2,539,377 = $362,762.

3. By implementing the New Personnel System, total cost avoidance achieved by not extending course lengths and reducing attrition will be ($28,501,962 + $362,726=) $28,864,724.

C. Direct Costs:

1. Faculty and Academic Staff Professionalization: The faculty and academic staff training program represents a capital investment in improving the quality of the faculty and academic staff. The cost of this program includes:

a. Twenty percent of the faculty and academic staff attending a joint Monterey Institute of International Studies (MIIS)/DLI part-time program leading to a Master's degree in foreign language teaching. The cost of MIIS classes is now $800 per course. DLI could pay up to 100% of the tuition costs. The averge cost for this program is estimated to be $570 per course per instructor.

b. One percent of the faculty and academic staff per year pursuing an advanced degree in fields relating to the teaching of foreign languages. The program will pay 100% of the costs for the faculty and academic staff who attend courses full-time. Program costs follow:

Tuition Assistance per course	$570
20% of 906-person faculty	×181
	103,170
12-Course Graduate Program	9,600
Average Faculty Salary	37,497
Per Diem and Travel	15,313
	62,410
No. of employees trained yearly	×9
	561,690
Total Cost of Education	664,860

2. Revised Salary Schedule: Given a faculty and academic staff with higher qualifications, DLI will have to provide a compensation package competitive with the private sector to initially attract and then retain newly trained faculty. Consequently, a full range salary scale, anchored by an entry level GS–09/01 salary, was developed which

should be comparable to salaries for faculty in 2-year colleges. Proposed pay ranges by academic ranks follow:

	Entry	Maximum
Asst. instructor (1%)	$20,195	$24,333
Instructor (4%)	22,367	29,081
Sr. instructor (5%)	29,081	31,297
Asst. professor (55%)	24,705	35,867
Assoc. professor (25%)	26,353	45,377
Professor (10%)	30,887	53,961
Sr. admin. faculty (4 positions)	49,701	76,982
Chancellor (1 position)	71,060	83,600

[1] Current salary limited to $75,500, which is the current rate payable to Level V of the Executive Schedule.

Given that the number of employees per academic rank will be limited to the fixed percentages shown above, the following cost comparison applies:

	Average Salary		Total cost	
	W/O benefits	W/Benefits 17%	W/O benefits	W/Benefits 17%
Proposed system	$32,809	$38,387	$29,725,284	$34,778,583
Current GS system	29,255	34,228	26,505,030	31,010,885
Total	3,554	4,159	3,220,254	3,767,698

These salary costs will be phased in over the first six years of implementation. All personnel will be grandfathered, in Year 1, i.e. remain at current salaries. Appropriate percentages will be promoted to Assistant Professor, Associate Professor and Professor as they complete training and become qualified. Expected yearly increases are as follows:

Year	Increased cost
1	0
2	$751,540
3	1,503,079
4	2,145,419
5	3,006,158
6	3,757,698

3. Awarding of Degrees: Section 2194:

Conferring of degrees upon graduates. Using accreditation and legislative approval as a springboard, DLIFLC will establish a program to award an Associate of Science (A.S.) Degree for foreign language training. As a degree granting institution, DLIFLC will help support competitive recruitment for the military linguist field. Resources to support an A.S. Degree will require manpower and consultant fees to analyze and translate current programs of instruction into academic syllabi following standardized college procedures, create articulation agreements and devise an academically acceptable degree granting structure, and perform credit evaluation and diploma/transcript clerical activities. The following resources will be required to support the A.S. Degree over a six year period:

Year	Cost
1	$31,250
2	63,000
3	125,000
4	125,000
5	125,000
6	125,000

4. Total Cost Estimate: A summary of the annual cost data for the first six years follows:

Year	Salary	Professionalization	Associate degree	Total
1	0	$664,860	$31,250	$696,110
2	$751,540	664,860	63,000	1,479,400
3	1,503,079	664,860	125,000	2,292,939
4	2,145,419	664,860	125,000	2,935,279
5	3,006,158	664,860	125,000	3,796,018
6	3,757,698	664,860	125,000	4,547,558

[1] Fully implemented, recurring annual cost.

D. Cost Estimate Summary:

We feel by professionalizing the faculty and academic staff and retaining quality personnel that we can achieve required student proficiency without increasing course lengths, beyond what is now supported by the GOSC (i.e. Cat. IV—63, Cat. III—47, Cat. II—34, Cat. I—25). All research in and out of the institute supports the belief that instructor productivity will be increased by creating a professional academic staff, and using the team teaching instructional concepts. The total annual cost avoidance savings to be realized through not extending language course lengths and reducing academic attrition is estimated to be $28,864,724. This compares very favorably with the New Personnel System annual cost, of $4,544,324 at full implementation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 13, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 14

9:30 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on naval force issues.

SR-222

Finance

Energy and Agricultural Taxation Subcommittee

To continue hearings to examine conservation and renewable energy tax incentives.

SD-215

JUNE 18

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1029, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on issues relating to interstate transportation of waste.

SD-406

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Small Business

To hold hearings to examine lender liability for environmental clean-up costs.

SR-428A

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation to modernize the National Weather Service of the National Oceanic and Atmospheric Administration, Department of Commerce.

SR-253

Judiciary

To resume hearings on legislative proposals to strengthen crime control.

SD-226

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on the Peace Corps.

S-126, Capitol

JUNE 19

9:00 a.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the B-2 bomber program.

SR-222

Select on Indian Affairs

To hold oversight hearings on the National Native American Advisory Commission.

SR-485

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine dairy supply management options.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 49, to establish an Ocean and Coastal Resources Enhancement Fund and a Coastal Zone Impact Assistance Fund, and to require the Secretary of Commerce to provide States and local governments with block grants from moneys in the Funds.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 481, authorizing funds for research into the desalting of water and water reuse.
SD-406

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of the Soviet economy.
SD-419

1:30 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings to examine dairy supply management options.
SR-332

Joint Printing
To hold hearings on the technological future of the Government Printing Office.
B-318 Rayburn Building

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 933, to provide fair funds to consumers of natural gas who are found to have been overcharged.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review broadcasters' public interest obligations.
SR-253

1:30 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to examine enforcement and administration of the Foreign Agents Registration Act (FARA).
SD-342

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To continue hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Strategic Defense Initiative.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nomination of Dennis A. Yao, of Pennsylvania, to be a Federal Trade Commissioner.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 477, to afford congressional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, New Mexico, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, S. 628, to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico, S. 772, to revise title V of P.L. 96-550, designating the Chaco Culture Archaeological Protection Sites, S. 855, to revise the Korean War Veterans War Memorial Act, S. 867, to establish a commission in the Department of the Interior to provide compensation to individuals who lost land or mining claims to the U.S. government for the establishment of the White Sands Missile Range, and S. 1117, to establish the Bureau of Land Management Foundation.
SD-366

JUNE 21

9:00 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Defense Environmental Restoration Account and the service environmental compliance funds accounts.
SR-232-A

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 884, to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, and related issues.
SR-253

JUNE 25

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review revenues from additional radio spectrum allocations.
SR-253

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Mary Ann Casey, of Colorado, to be Ambassador to the Democratic and Popular Republic of Algeria, John Thomas McCarthy, of New York, to be Ambassador to the Republic of Tunisia, Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Arab Republic of Egypt, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.
SD-419

JUNE 26

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR-485

JUNE 27

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the National Critical Technologies Report as critical to U.S. economic prosperity and national security.
SD-366

JULY 9

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.
SR-485

JULY 10

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-253

JULY 11

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR-485

JULY 15

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy's role in math and science education.
SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

JULY 23

9:30 a.m.

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

CANCELLATIONS

JUNE 20

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the Navajo-Hopi relocation program.

SR-485

POSTPONEMENTS

JUNE 19

2:00 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.

SR-253