

SENATE—Monday, July 22, 1991*(Legislative day of Monday, July 8, 1991)*

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. LIEBERMAN].

PRAYER

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

Let us pray:

Who can find a virtuous woman? for her price is far above rubies. The heart of her husband doth safely trust in her, so that he shall have no need of spoil. She will do him good and not evil all the days of her life.—Proverbs 31:10-12.

Eternal God, who created us in Your image, male and female, on this occasion of the 101st birthday of Rose Kennedy, we thank You, gracious God, for this remarkable woman, her commitment to her family and her faithfulness despite overwhelming tragedy and difficulty. Thank You for the leadership she has given the Nation through her sons. May she on this day be aware of our admiration, respect, and affection.

We thank You for the great women of the Bible, the great women of history, and the great women of today. We thank You for their influence, their leadership, their power, and we bless You for virtuous women.

Father in Heaven, thank You for faithful wives and mothers whose love and labor are unending. Thank You for professional and business women and for all the faithful women who serve at every level of human endeavor, demonstrating their indispensability in our society.

We pray in His name who never failed to honor women, at whose grave women were the last to leave and at whose resurrection women were the first to arrive. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time reserved for the two leaders, there will be a period for morning business not to extend beyond 3 p.m., during which Senators will be permitted to speak. At 3 p.m., the Senate will begin consideration of Calendar item No. 149, that is S. 1367, a bill to extend to China renewal of most-favored-nation trade status until 1992 provided certain conditions are met.

During today's session, there will be a period for debate only on that measure until 4:30 p.m. At or after 4:30, it is expected that Senator HELMS will offer an amendment relative to the subject of the bill. There will be a vote on that amendment not prior to 7 p.m. this evening. There may be other amendments and other votes, but that has not yet been determined.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 3 p.m., with Senators permitted to speak therein.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

HAPPY 101ST BIRTHDAY, MRS. KENNEDY

Mr. BYRD. Mr. President, today is the birthday of one of the most extraordinary women in American history.

This woman has never held public office. She has never been a candidate in a political election. She has never served on the board of a major American corporation. She has never written a bestselling novel or composed a famous poem.

Nevertheless, this woman is known worldwide, and is admired and loved by millions.

And she can make a claim unparalleled in American history—to have been the mother of three men each of whom became a United States Senator, one of whom became Attorney General of the United States, and one of whom was President of the United States.

I am, of course, speaking of Rose Kennedy, wife of the late Ambassador to the Court of St. James, the Honorable Joseph P. Kennedy, and the mother of President John Fitzgerald Kennedy, Senator Robert Kennedy, and our own colleague, the distinguished Senior Senator from Massachusetts, EDWARD M. KENNEDY.

Today, Rose Kennedy is 101 years old, and we are Members of the 102d Congress.

In her long life, Mrs. Kennedy has witnessed the convening of half of the Congresses in U.S. history—a record equalled by but a handful of living Americans.

But, moreover, as the wife of a United States Ambassador to Britain and the mother of three of the most significant political figures in this century, as a matter of fact, in both centuries that the Senate has been in existence, Mrs. Kennedy has been a participant in, and a contributor to, some of the most dramatic events in contemporary American and world history.

We are privileged in our time in history to have so long with us as an in-

NOTICE

In an effort to facilitate timely delivery of the Congressional Record each morning, the Senate will begin, on July 22, 1991, to send copy to the Government Printing Office at 4 p.m. each day of session, and every hour thereafter. This procedure will apply to all introduced bills, amendments, and other routine morning business.

Copy will be available for 2 hours for review by Senators and their staff prior to submission to the Government Printing Office. The 2-hour review period will apply to floor proceedings as well as routine morning business.

Joint Committee on Printing

spiration and a symbol of hope, patience, courage, fortitude, motherhood, and patriotism this extraordinary woman—the matriarch of an extraordinary family.

Mr. President, I know that I speak for all of our colleagues on both sides of the aisle and in both parties in expressing profoundly sincere wishes to Mrs. Rose Kennedy for a happy birthday on this very special milestone day in her life. And I hope that Senator KENNEDY will express to his mother our good wishes of the United States Senate for her happiness on this day and a continued long life—wishes that we extend to Mrs. Kennedy as the representatives of all 50 States and of roughly 250 million Americans who stand in debt to this indomitable American woman.

And to Mrs. Kennedy, Erma joins me as I say, on her behalf and on behalf of all of my colleagues, to Mrs. Rose Kennedy:

The hours are like a string of pearls,

The days like diamonds rare,
The moments are the threads of gold.

That binds them for our wear.

So may the years that come to you

Such health and good contain,

That every moment, hour, and day,

Be like a golden chain.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

NATURAL GAS PROVISIONS OF S. 1220 THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. SHELBY. Mr. President, I rise today to express my support for the natural gas provisions contained in S. 1220, the National Energy Security Act of 1991. I commend the distinguished chairman and ranking member of the Energy Committee, Senators JOHNSTON and WALLOP, for their leadership on this issue and recognition of the fact that the promotion of natural gas is a critical component of any energy policy in the best interest of the Nation.

The health of the natural gas industry is also important to my home State of Alabama. Currently, Alabama ranks 12th in natural gas production. Within the next 5 years we will undoubtedly be numbered among the top 10 natural gas-producing States.

Natural gas will play a key role in leading this Nation from a position of energy dependence to one of energy independence. The United States is fortunate to have abundant natural gas resources. It has been estimated that with conventional technology, we have enough natural gas resources to supply this country for 38 years, at our current rate of consumption. With continued advances in exploration and production technology, our natural gas re-

source base could supply us for as many as 57 years.

Recent events in the Persian Gulf have made it clear that we must utilize all of the energy resources at our disposal to the fullest extent possible. The natural gas and pipeline industry must play a vital role in carrying out this mandate.

Oil imports are responsible for about 55 percent of the foreign trade deficit with which Congress continues to grapple. Natural gas, however, has the potential of displacing nearly 1.7 million barrels of imported oil per day within 10 years. Furthermore, natural gas can be employed in the generation of steam for enhanced recovery of domestic oil.

Ninety percent of the natural gas consumed in the United States is domestically produced and provides nearly half all the energy consumed by U.S. households. Natural gas is an economic fuel. On an energy equivalent basis, natural gas is about 70 percent cheaper than oil. Together, these factors have the potential to boost the gross national product and improve the Nation's trade balance.

Natural gas is environmentally sound. It is our Nation's cleanest burning fossil fuel. Natural gas combustion emits virtually no particulates, sulfur oxides, carbon monoxide, reactive hydrocarbons, and other pollutants.

Existing regulatory barriers, however, prevent full utilization of our natural gas resources. The enactment of the Natural Gas Act of 1938 began Government's involvement in the natural gas markets, starting with a utility type regulation of interstate pipelines. That regulatory system has not been conducive to productivity and consumption of natural gas.

Compared to the last 20 years, there has been a significant decline in gas consumption by the industrial and electric generation sectors. Today, domestic use of natural gas is more than 10 percent lower than in 1970.

Consumers, producers, and the environment have suffered because of regulatory impediments that prevent the marketing of all the natural gas that we are capable of producing. The deluge of regulatory requirements associated with the construction and operation of natural gas pipelines create uncertainties that discourage investments necessary for consumers, producers, and transporters to take full advantage of the natural gas market.

Among the greatest regulatory barriers in the natural gas industry is the problem of transporting the gas from the wellhead to the consumer. Title XI of S. 1220 expedites pipeline construction by providing a range of regulatory options.

Included in this process is an optional certificate procedure that would vary the level of regulatory oversight of pipeline projects according to the risk assumed by the pipeline and the

effect that the new pipeline might have on existing ratepayers.

Title XI further streamlines the regulatory process at the FERC by making it the lead agency for the NEPA process and permitting third party contractors to prepare environmental impact assessments. This will aid in removing much of the delay in building new pipelines due to the current cumbersome environmental review proceedings at FERC. Delays caused by tolling orders on rehearings are also addressed.

Amendments to section 311 of the Natural Gas Policy Act [NGPA] will enable pipelines to take advantage of greater opportunities to construct and operate pipeline facilities that transport natural gas in interstate commerce.

The natural gas provisions of S. 1220 recognize the potential and need to use natural gas as an automotive fuel. This is done by clarifying and limiting the FERC's jurisdiction over local distribution companies selling vehicular natural gas. Nonpublic utility retailers of vehicular natural gas are exempt from the regulation of State public utility commissions.

Upon review of S. 1220's changes in natural gas regulatory procedures the Department of Energy [DOE] predicts that gas production and consumption will increase. The public could consume an additional 1 trillion cubic feet of natural gas by the year 2010.

Natural gas also stands to benefit from the alternative fuel and fleet provisions of S. 1220. The enhanced market atmosphere created by S. 1220 will posture natural gas to be an important fuel of choice for fleet vehicles.

With the passage of the Clean Air Act amendments last year, cleaner, more efficient means of generating electricity are being explored. Turbine generators fired by natural gas have proven to be an effective, reliable and efficient alternative for electric generation.

Mr. President, in Alabama we have a saying, "Use it or lose it." Natural gas is an abundant fuel with yet unseen potential. We must use this resource to its fullest extent or we will lose the multitude of invaluable opportunities that rest with the continued development of the natural gas industry.

S. 1220 provides a foundation upon which we can build this industry, benefit the economy, protect the environment, and aid in securing the energy future of our Nation.

TRIBUTE TO ALPHA SMABY

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to a Minnesotan who spent a lifetime in Minnesota grassroots politics. Alpha Smaby, a former legislator and an advocate of equal rights for all, died on Thursday, July 18, at the age of 81. As

her friends and family gather this afternoon in St. Mark's Cathedral, Minneapolis, to remember Alpha Smaby, her energy and her conviction will be missed.

Alpha Smaby served in the Minnesota House of Representatives while I served Gov. Harold LeVander, from 1967 to 1971. At that time, the legislature was two-thirds GOP. Alpha not only touched every policy she cared about, but she actually made a difference.

My colleague, Senator WELLSTONE, has already reminded us of the many things Alpha Smaby gave, personally and professionally, to her home State of Minnesota. I stand, instead, to salute her, to thank her posthumously for her contributions and to offer her family my sympathies.

TRIBUTE TO COL. MARCIA RINKEL, U.S. ARMY, UPON HER RETIREMENT FROM ACTIVE SERVICE

Mr. THURMOND. Mr. President, during the past several months, the role of women in our military services has been a major topic of discussion, both here in the Halls of Congress and across our great Nation. I rise today to recognize a soldier, Col. Marcia Rinkel, U.S. Army, whose career over the past 30 years has vividly demonstrated the tremendous contributions that women make to our Armed Forces.

Colonel Rinkel, who is currently serving as the chief of the Assistance Division, Office of the Inspector General, U.S. Army, will retire in August 1991. She was commissioned as a second lieutenant in the Women's Army Corps in August 1961 after graduating from Kansas State University.

From her initial assignment as a platoon leader at the Brooke Army Medical Center, Fort Sam Houston, TX, Colonel Rinkel served in assignments of increasing responsibility throughout the world. Although her career field focused on military personnel, she served with great distinction at all levels of command from company commander, Women's Army Corps Training Brigade, to commander of the 21st Replacement Battalion, U.S. Army Europe.

Before women in combat became a media buzz word, Colonel Rinkel had already served 2 years in Vietnam. As many of you can recall 1968 through 1970 saw some of the most ferocious fighting in the Vietnam war, Colonel Rinkel contributed to the successful outcome of this effort first as a plans officer and later as chief of personnel actions for the Logistic Command, Vietnam. For her service in Vietnam she received the Bronze Star with two oak leaf clusters.

Upon her return from Vietnam, Colonel Rinkel's extensive experience was tested as a personnel management officer at the U.S. Army Personnel Center

and as the Secretary of the General Staff, 3d Reserve Officer Training Corps, Fort Riley, KS. In each of these positions she was influential in guiding the careers of junior officers and setting an example for women throughout the Army.

In 1980, Colonel Rinkel returned to Washington as the secretary to the Joint Staff, Armed Forces Industrial College at Fort McNair. She has subsequently served as the chief, Accession Management and Separations Division, officer personnel management directorate at the Military Personnel Center and as an investigator in the Office of the Army Inspector General. In June of 1988, Colonel Rinkel became the chief of the Assistance Division, Office of the Inspector General. In this position, she has been the driving force in eliminating waste, fraud and abuse in the Army and ensuring that the rights of the Army's soldiers are protected.

Mr. President, I am pleased to recognize Col. Marcia Rinkel for her many years of outstanding service to the U.S. Army and our great Nation. I wish her the best in her well-deserved retirement.

THE 1991 CONGRESSIONAL CALL TO CONSCIENCE VIGIL

Mr. DECONCINI. Mr. President, I am pleased to rise today to participate in the 1991 Congressional Call to Conscience and to thank this year's chair of the vigil, Senators LAUTENBERG, KOHL, and GRASSLEY. For the past 15 years, this Call to Conscience has brought to the attention of this body, the American public and Soviet authorities the plight of countless refuseniks who had been denied their basic rights of freedom of movement and family reunification.

While in the past I have focused on a particular refusenik, today I would like to talk briefly about several situations which are precluding Soviet Jews from emigrating. According to reports provided by the Union of Councils for Soviet Jews, many applicants face delays of up to 7 or 8 months before getting responses to their applications for exit permission. In other instances, many OVIR offices [Office of Visas and Registration] are so overwhelmed with the number of applicants, that they have had to close their doors temporarily. Further reports indicate that in a number of cities all graduates from certain institutions such as the Penza Polytechnic Institute are being deemed to have access to state secrets and are being told that they cannot apply to emigrate from the Soviet Union.

Mr. President, over the past few years there has been a marked improvement in the number of Soviet Jews and others permitted to emigrate. According to statistics in 1989 more than 71,217 Jews emigrated from the Soviet Union. That number more than

doubled to 186,815 in 1990 and through the end of June of this year those emigrating had already surpassed 100,000. These figures are impressive, but we cannot ignore those who are still being denied their right to leave the Soviet Union.

In May 20, the Supreme Soviet passed, in principal, a new law on exit and entry from the Soviet Union. The legislation represents a significant improvement over existing emigration law. However, several sections fall short of internationally recognized standards, including those of the Conference on Security and Cooperation in Europe [CSCE], on freedom of movement issues. In addition, the law will not fully go into effect until January 1993. Although the number of Jews leaving has risen and the Soviets have passed their emigration legislation, the number of refuseniks and those Soviet Jews who are unable to apply to emigrate, the so-called poor relatives, remains in the hundreds.

Despite the fact that people continue to be denied the right to leave, some for more than 10 years—and in spite of existing obstacles to full freedom of movement, President Bush has announced his intention to grant the Soviet Union an additional 1 year waiver of the Jackson-Vanik amendment to the 1974 Trade Act. In order to ensure further progress is made on the remaining refusenik cases, I, along with Congressman STENY HOYER have introduced a sense of the Congress resolution, that asks the President to consider certain performance factors before providing a waiver in 1992 of the Jackson-Vanik trade restrictions. This resolution would basically see to it that the Soviets live up to their commitments in implementing their recently passed emigration legislation.

The resolution asks the President to consider the following objectives before providing in 1992 a waiver of the Jackson-Vanik trade restrictions: First, all individuals who, for at least 5 years, have been refused permission to emigrate from the Soviet Union, are given permission to emigrate; second, restrictions on freedom of movement, including those pertaining to secrecy, are not being abused or applied in an arbitrary manner; third, a fair, impartial, and effective administrative or judicial appeals process exists for those who have been denied permission to emigrate; fourth, the Government of the Soviet Union is ensuring that its laws, regulations, practices, and policies conform from their commitments under its international obligations, including the relevant provisions of the Helsinki Final Act and all Conference on Security and Cooperation in Europe Commitments.

Prior to President Bush's meeting with President Gorbachev in London, the leadership of the Helsinki Commission sent a letter to President Bush

asking that he raise several human rights issues with the Soviet President. These issues focused on the remaining refuseniks and the situation in the Baltic States of Latvia, Lithuania, and Estonia. We plan to raise these issues again prior to the Moscow summit at the end of July. I am pleased to share with my colleagues the text of the Helsinki Commission's letter to President Bush, and ask unanimous consent that it be printed in the RECORD.

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

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE,
Washington, DC, July 11, 1991.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge you to raise several human rights issues with President Gorbachev during your upcoming meeting in London. While many aspects of Soviet human rights policy and practice have improved in recent years, problems persist. It is particularly important, we believe, to seek resolution to these matters without further delay, mindful that the Soviets are scheduled to host the third meeting of the Conference on the Human Dimension this September.

We are extremely concerned about the continuing low-level violence taking place in the Baltic States. As you know, from April to the present, Soviet "Black Beret" internal army units under the direct control of Moscow have been staging raids on border control posts and other government buildings in the Baltic States, particularly in Lithuania. In response to protests from the democratically elected governments of the Baltic States, Moscow has offered denials, obfuscation, and promises to "investigate." Yet the violence continues.

Mr. President, we urge you to impress upon President Gorbachev that such actions are not only inconsistent with international obligations agreed to by the Soviet Government, and a contradiction of the liberalizing policies associated with President Gorbachev, but call into question the seriousness of the government to political pluralism and a state based on the rule of law.

We are also very concerned over Soviet policy and practices with respect to freedom of movement. Despite significantly increased levels of Soviet emigration, hundreds of individuals continue to be denied their right to leave, many under the pretext of access to "state secrets." Others are denied their right to leave until years after they have completed their military service. Still others are prevented from leaving until they secure permission from relatives who hold a virtual veto over their departure. In addition, there are several Soviet citizens prevented from exercising their right to leave the USSR to visit family members in the United States who had defected from the Soviet Union.

In his December 1988 address before the United Nations, President Gorbachev indicated that "strictly warranted time limitations on the secrecy rule will now be applied." Citing this and other announced reforms, the Soviet President asserted that "this removes from the agenda the problem of so-called 'refuseniks.'"

Unfortunately, President Gorbachev has failed to fully honor these assurances. Accordingly, Mr. President, we urge you to en-

sure that the plight of Soviet refuseniks remains on the agenda until all outstanding cases have been resolved and the individuals involved have been allowed to leave.

In giving its consensus to the Vienna Concluding Document, the Soviet Union undertook a commitment to resolve outstanding human contacts cases by July 15, 1989. Today, nearly two years later, dozens of these same cases remain unresolved. The time has come to wipe the slate clean.

We request that you present the attached list of outstanding cases to President Gorbachev during your upcoming meeting in London. While we are mindful of the significant progress that has taken place with respect to Soviet emigration law and practice, this is of little consolation to those who continue to be denied their right to leave the USSR.

Sincerely,

DENNIS DECONCINI,
Cochairman.

STENY H. HOYER,
Chairman.

ALFONSE D'AMATO,
Ranking Minority Member, Senate.

DON RITTER,
Ranking Minority Member, House.

Mr. DECONCINI. Finally, Mr. President, on September 10, less than 2 months from now, the 35 signatory states of the Conference on Security and Cooperation in Europe [CSCE] will gather in Moscow for the third of three meetings of the Conference on the Human Dimension [CDH]. The Helsinki Commission, which I cochair, plans to travel to Moscow for the opening of the CDH meeting. It is the intention of the Commission to raise the issues that I have outlined above. It is imperative that the Soviets live up to their commitments under the Helsinki Final Act, and the Vienna and Copenhagen documents. The Soviet Union in giving its consensus to the January 1989 Vienna concluding document undertook a commitment to resolve outstanding human contacts cases by July 1989. Today, nearly 2 years later, as I indicated above, some of these cases remain unresolved. The time has come to finally wipe the slate clean and I encourage the Soviets to do just that before the Moscow meeting.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,319th day that Terry Anderson has been held captive in Lebanon.

BAN OF WILDLIFE TRADE WITH THAILAND

Mr. MOYNIHAN. Mr. President, I rise to call the attention of the Senate to the determination by the Secretary of the Interior, Manuel Lujan, that effective July 30, 1991, wildlife imports from Thailand will be banned. This will initially cover some \$18 million in Thai exports, and further trade could be affected if Thai practices don't change.

This action was not taken precipitously by Secretary Lujan, nor as a

consequence of a unilateral U.S. determination. On the contrary, the administration's action has been taken in complete compliance with international law. Specifically, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora. CITES as it is known.

Indeed, the ban on Thai wildlife exports is compelled under the terms of CITES itself, because of the failure of the Thai Government to take any action to implement CITES. The CITES Secretariat, charged with controlling international trade in endangered species, has documented over 100 violations by the Thai Government. Consequently, on April 12, 1991, the standing committee on CITES recommended to the 110 members of CITES that they ban wildlife trade with Thailand.

Even though Thailand joined CITES in 1983, it has yet to pass legislation to implement CITES. Let alone take efforts to enforce it. According to the Interior Department, Thailand has become a hub of illegal smuggling activity for species of wildlife from throughout Southeast Asia.

Thailand is not the only nation that tolerates illegal wildlife trade. Singapore is another that comes quickly to mind. But, as the administration has now determined, there is no nation worse than Thailand. A strong statement, but a true one. Not by my reckoning. Nor by the reckoning of the Secretary of the Interior. Rather by the determination of the standing committee of CITES which represents 110 nations.

Mr. President, for some years now I have introduced legislation in the Congress to increase and strengthen the institutional and legal relationship between trade and environmental issues. A GATT for the environment, as I have called it in S. 59. This latest example of Thailand's total disregard of CITES again underscores the need for a GATT for the environment.

In the meantime, I commend the administration's action on Thailand, and urge its vigorous enforcement.

I ask unanimous consent that the release by the Secretary of the Interior announcing the ban on wildlife trade with Thailand be printed in the RECORD.

I yield the floor.

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

INTERIOR SECRETARY LUJAN ANNOUNCES BAN ON WILDLIFE TRADE WITH THAILAND

Secretary of the Interior Manuel Lujan today announced that the United States is banning trade with Thailand in wildlife protected under an international treaty that regulates trade in endangered species.

"This trade ban will protect wildlife by denying a market for illegally taken animals," Lujan said. "Through this action, the United States is living up to its responsibility as part of the international environmental community."

Lujan's action, which takes effect July 3, bans imports and exports of all wildlife protected under the 111-nation Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The action affects an estimated \$18 million in annual trade in CITES-regulated wildlife between Thailand and the United States. The vast majority of the trade is wildlife exported from Thailand to the United States.

The ban follows an April 22, 1991, notification from the CITES Secretariat asking all party nations to "take all measures" to prohibit trade with Thailand, recognizing that the country is unable to control wildlife trade as a result of inadequate laws and ineffective enforcement. Twelve European community nations have also taken steps to restrict wildlife trade with Thailand, and similar action is under consideration in Japan.

In 1990, the Interior Department's U.S. Fish and Wildlife Service seized illegal Thai shipments of ivory jewelry, sea turtle products, leopard and tiger parts and products, and a wide range of reptile products such as shoes and belts. The seizures noncompliance in shipments of wildlife from other countries.

Thailand serves as a staging point for shipments of live cheetahs, tigers, bears, orangutans, and gibbons. Thailand is a signatory to CITES but has no effective means of enforcing CITES regulations and no laws to protect wildlife that enters Thailand from other countries. In practice this has meant that smugglers may obtain CITES permits from Thailand in an effort to slip illegal wildlife shipments past Customs and Fish and Wildlife Service inspectors.

Under the ban, the Fish and Wildlife Service will not clear for importation shipments of CITES wildlife that originate in Thailand or are re-exported to or through that country regardless of the documentation provided. Furthermore, the United States will not approve for export to Thailand from the United States any CITES-listed species. Shipments may be returned to Thailand or seized if they violate United States law.

Lujan said the United States will consider lifting the ban when sufficient evidence indicates that Thailand complies fully with treaty requirements.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

UNITED STATES-CHINA ACT

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to consideration of S. 1367 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, reported without amendment and without recommendation.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Mr. MITCHELL.

Mr. MITCHELL. Mr. President, I will momentarily make a statement in support of the legislation. Following my remarks the distinguished Senator from Indiana will be making a statement in opposition to the legislation and the chairman of the Senate Finance Committee and ranking member of the Finance Committee will be here shortly to manage the bill and to make their statements.

Under the previous order there will be debate only until 4:30, following which it is expected that Senator HELMS will be recognized to offer an amendment.

BIRTHDAY WISHES

Mr. MITCHELL. Mr. President, before we get into the debate on the subject, I would digress for a moment to note that the distinguished President pro tempore during morning business made a statement recognizing this as the birthday of Mrs. Rose Kennedy and expressed the sentiment of the entire Senate in wishing her well.

I would like to note that today is also the birthday of two other distinguished Americans, one of whom is Senator ROTH of Delaware and the other of whom is the distinguished Republican leader who is here present on the Senate floor, and I know that I speak for all Senators in wishing the distinguished Republican leader well and many, many more happy birthdays.

Prudence dictates that I not disclose the number because it is in that twilight zone where it is too many to be mentioned, but not enough to achieve the status of venerable that goes with many more.

But I do want to say, Mr. President, that it has been a great pleasure for me, as majority leader, to work with the distinguished Republican leader. While we often disagree on issues, our disagreements have never been personal or unreasonable and I look forward to continuing our efforts, I might say in our current status.

Mr. DOLE. Mr. President, if the majority leader will yield, I would just say that I appreciate very much the recognition. I only say it beats the alternative. I also note I am pleased that the press is here. It is 3 o'clock. If we do not stay in too late maybe they will be here this evening.

UNITED STATES-CHINA ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. Mr. President, the Senate now begins consideration of legislation the specific subject of which is

the question of extending most-favored-nation tariff treatment to the export products of the People's Republic of China.

But the larger subject of this debate is the American national interest in the world.

The long-range goals and best interests of our own Nation should rest at the heart of any debate on foreign trade or foreign policy.

We will not craft coherent policies toward specific nations unless we are guided by consistently those abiding long-term interests.

That is true whether the issue is trade relations with the People's Republic of China or arms agreements with the Soviet Union. Our focus has to be the national interest, not the manipulation of short-term advantage for this or that interest group or the political advantage of one or another individual.

The American national interest—our Nation's goals, the interests that best serve our people, for whose sake our Government is established—the American national interest is in a stable and prosperous world.

We have found, through the course of history, that stability in the world is best preserved when nations do not menace each other. We have found that democracies are the governments least likely to menace others, and the most effective at resisting aggression.

Similarly, our national interest is in a prosperous world, both because widespread prosperity reduces the range of human conflicts and because our American ideals place the highest value—the very highest value—on the rights and security of the individual human being.

Throughout the course of our history, we have found that democratically governed citizens have the greatest opportunity to pursue prosperity for themselves and their families. Only a democracy ensures the freedoms essential to economic prosperity. The short-term economic shifts of dictators do not create the long-term security individuals need to build lasting wealth.

Historically, therefore, lasting prosperity has been out of the reach of dictatorships.

They can manipulate markets for short term gain or to enrich small and privileged groups, but they cannot build the widespread prosperity which is the only secure guarantor of stability.

These fundamental factors, therefore, should guide our policy debates, whether they are based on trade issues, arms issues, or other matters.

Will a policy contribute to or detract from the expansion of democratic governments?

Will a policy contribute to or detract from the ability of people to pursue a better life for themselves and their children?

Judged by those criteria, the administration's policy toward the People's Republic of China deserves to be reconsidered. The Government in China is not moving the system toward more democracy or more openness. Instead, it is moving toward more repression.

It is evident that the Government in China is pursuing an economic policy based on governmental manipulation and selective, temporary free markets in a few parts of the country.

It has been more than 2 years since the elderly Communist rulers of China sent tanks and soldiers to kill Chinese citizens for the crime of peacefully advocating democracy in China. That was their crime. They advocated peacefully for democracy in their country. For that, they were murdered by the tanks and soldiers of their own country.

It has been over 2 years since the President sent the first of several high level missions to talk with the Chinese leaders about human rights violations and weapons technology proliferation—subjects that are at the heart of world order and stability.

Yet, despite 2 years of forbearance and 2 years of efforts at dialog, there has been no progress—no progress; none. The goals of American policy—stability and prosperity in the world community—are no nearer realization today in China than they were 2 years ago.

Instead, repression continues unabated. Hundreds of Chinese who were arrested because they favor democracy remain unaccounted for, more are detained without charge or languish in prisons and work camps. Instead of improving, the human rights situation in China has worsened.

Judging by results, it is clear that the extension of most-favored-nation status has created no incentives—no incentives whatsoever—for the Chinese Government to respect the civil rights of their own people.

The extension of most-favored-nation status to China is conditional at this time, because China does not meet the human rights standards already in law: The right of free emigration is not a right any Chinese citizen can today exercise.

We have to determine whether the conditional extension of a privilege for the purpose of liberalizing the political system should continue when no signs of liberalization are evident despite 2 years of this policy.

We have to make a judgment as to how long it is reasonable to wait for such signs to appear before we change the policy.

The bill before us is designed, not to prejudge the issue today and reach a conclusion, but to provide a framework of time within which we can determine if the improvements in Chinese policy for which MFN status is granted are in fact coming to pass.

It is my sense that no coherent policy judgment on this point has been made by the administration.

Instead, the President continues to justify the policy year by year despite the year-by-year evidence that the policy is failing.

At each sign that the Chinese are violating international trading rules, or that the Chinese are threatening to ship missiles, or that the Communists are selling nuclear technology, at each sign the President dispatches officials to speak with the Chinese leaders.

In response, the Chinese leaders indignantly reject what they call American interference in their internal affairs.

And so the policy of favoring China remains in place, and so does that policy's lack of success.

This bill is designed to focus on an examination of that policy. Unless we take the time to examine whether a policy is working, we will not have—we will never have—coherent policies. And unless we have coherent policies, we will not be doing what is in our Nation's best long-range interests.

One element of that policy that deserves the most careful examination is practical economics. Much attention in this debate has been focused on China's horrendous human rights record, which even the opponents of this legislation acknowledge. Much debate has been focused on China's horrendous policy on the sale of nuclear technology, ballistic missiles, and missile launchers which even the opponents of this legislation acknowledge. And I will address them in a moment.

But not enough attention, not enough debate, has focused on the economic terms of our relationship with China and its incredible disadvantage to our own country.

And so we should begin with this question: In economic terms alone, does our trade relationship with China benefit both countries or just one?

And, if one, which one?

Last year, the administration suggested that our trading relationship with the Chinese Government was so important to American business interests that most-favored-nation status had to be renewed despite admitted concerns over human rights or China's missile sales to Third World countries.

So let us look at that trade relationship after yet another year of most favored status.

China's exports to the United States have increased by 27 percent in that year, to a total of \$15 billion. Those exports now account for nearly one-fourth of all of China's sales worldwide. Our exports to China, meantime, American exports to China, have decreased by \$1 billion, to a total of \$4.8 billion. And so the China-United States trade imbalance has increased by 67 percent in a single year and now favors China to the tune of \$10.4 billion. The export

imbalance continues to grow at a rate nearly 10 times as fast as China's purchases of goods from the United States.

Clearly, the overall balance of trade in this relationship favors China dramatically, and the trend continues even more so today. It is clearly a much more important relationship to China than it is to the well-being of the people of the United States.

Additionally, the most troubling reality is that the rapid rate of export growth from China has not been accidental or the result of Chinese ingenuity. It is the direct result of a government-manipulated trade policy, using generalized and pervasive controls over trade and payments to limit exports from the United States and to promote their exports to the United States.

In an appearance before the Joint Economic Committee recently, the Bush administration's Deputy Assistant Secretary of Commerce for International Economic Policy testified:

Over the last 2 years, we have observed a pronounced increase and proliferation in tariff and nontariff barriers to imports that have effectively denied imported goods fair access to China's domestic market.

Those are not my words. Those are the words of the Bush administration's expert on such matters, describing what has happened in the 2 years that the President's policy has been in effect.

Let me repeat the words of the Bush administration regarding what China has done in the 2 years since the President put this policy into effect. Again, these are not my words, these are not the words of anyone outside the Bush administration. This is the Bush administration's trade expert who said:

Over the last 2 years, we have observed a pronounced increase and proliferation in tariff and nontariff barriers to imports that have effectively denied imported goods fair access to China's domestic market.

Mr. President, that testimony supports press reports of trade manipulation. In August 1989, press stories suggested that the Chinese State Council secretly decided to exclude American firms from the Chinese telecommunications market. The Assistant Secretary, again the Bush administration's expert, testified that:

In fact, China's policies have made it increasingly difficult for U.S. firms to gain fair access to domestic Chinese markets; in 1990, China was the only major market for U.S. goods and services in which sales experienced an actual and appreciable decline.

Again, Mr. President, I emphasize, this is the Bush administration's trade expert describing what has happened to Chinese trade policies since we began the policy that the administration now seeks to perpetuate.

It is one thing to claim that the Chinese people ultimately reap some benefit from a trading relationship and that it should continue for that reason. But when the administration's own testimony is that Chinese leaders see most-

avored-nation status as an opportunity to manipulate trade to their own advantage and to American disadvantage, we should examine with great care the cost to our own Nation of that relationship. Again, the Assistant Secretary from the Bush administration:

More disturbing than the substantial and growing United States trade deficit with China, is the fact that the deficit reflects a decision by China to intensify protectionist measures as a way of managing imports.

Let me repeat that sentence:

More disturbing than the substantial and growing United States trade deficit with China, is the fact that the deficit reflects a decision by China to intensify protectionist measures as a way of managing imports.

So, according to the Bush administration itself, the policy pursued by the administration for the past 2 years has been a spectacular failure in influencing the behavior of the Chinese Government in trade with the United States, and it has demonstrably and beyond dispute produced a result that is the exact opposite of what our policy seeks to achieve.

Every Senator must ask, is such a trade relationship in the best national interests of the United States? On a purely economic basis, there are extremely strong arguments for ending such a relationship. When one partner cynically uses a favored trade status to manipulate trade to its advantage and to the severe disadvantage of the United States, the relationship cannot prove durable. What is equally disturbing is that the relationship today is benefiting a few Americans but actively harming many others. That is not the hallmark of a sustainable relationship.

When copyrighted software is stolen and reproduced at will by the Chinese, the American producers of that product are being robbed. It is robbery, just as much as if an individual citizen is robbed out on the street. Last year, Chinese piracy of American software cost American manufacturers directly over \$400 million. The American owners and the American workers are losing the rewards of their own hard labor and their own effort.

The other side of the economic relationship, China's exports to the United States, shows that despite the hope that economic liberalization will lead to political liberalization, exactly the opposite has occurred. It has now been thoroughly documented and is beyond dispute, documented by the Congressional Research Service and the General Accounting Office, as well as by Asia Watch, that the Chinese regime uses forced labor in its prisons. That is not in dispute. Many of the products that those prisoners produce are being exported to the United States. That is a direct and outrageous violation of existing American law.

In April of this year, the Customs Service announced it would investigate

this situation. To that, every Senator must say: It is about time. And I hope the results of that investigation will be available soon.

In this respect, the liberalization of trade relations has not liberalized government policies. Instead, the trade relationship is being cynically exploited by the Chinese Government. The products of political repression within China are earning hard currency for the leaders of that repression.

The very people who are directing the repression are benefiting from it, even though it directly violates existing American law. And the administration will do nothing about it. The administration has done nothing about it. That is not a basis for a relationship that is sound, sustainable or, in the long-term American national interest.

The American national interest and global stability is a permanent national interest, one that should lie at the heart of every relationship we have with every other nation. The Chinese Government has not cooperated in international efforts to control the proliferation of ballistic missiles and nuclear technology to Third World countries. China has refused to sign the Nuclear Nonproliferation Treaty. China rejects membership in the 16-nation missile technology control regime.

Mr. President, the Persian Gulf war showed all Americans and people all over the world how modern warfare can threaten civilians hundreds of miles from the front line, even when the missiles are not nuclear armed.

A stable world will not emerge so long as a dictator can threaten the civilian populations of neighboring countries. Missile technology control is as important as nuclear weapons and nuclear technology control. Both are very much a matter of long-term American national interest.

The press reports tell us that the Chinese have negotiated to sell ballistic missiles, missiles which are nuclear warhead capable, to Pakistan, Syria, to Iran. China has sold a nuclear reactor to Algeria, which can be used to manufacture nuclear weapons material. Chinese leaders loudly deny that they are selling nuclear technology and weapons, but the evidence points increasingly to a high-level Chinese Government policy of indiscriminate weapons sales anywhere in the Third World as a source of hard currency for the Chinese military and for relatives of the Chinese regime's leaders.

Government denials, no matter how indignant, are not good enough to serve as the basis of American policy when an issue so central to our national interest is at stake, and that is especially so when previous denials have since been proven to be false. How many times do we have to receive denials that later prove to be false before we refuse to accept those denials?

The American interest in expanding and securing democratic liberties

around the world for people everywhere is self-evident, yet the Chinese practices of repression within China and oppression against the people of occupied Tibet remains unaddressed and unchanged. Reports from overseas and from within our own Government repeatedly highlight that the status of human rights under the current Government of China is appalling. Asia Watch reported Chinese prisons and labor camps hold more political prisoners today than they have held in over a decade. The annual State Department human rights report again concluded that "China's human rights climate in 1990 remained repressive, if less overtly so than in 1989."

What that means, of course, is that they are hiding this repression better than they were the previous year. That is not the basis for a sustainable relationship in terms of our national interest in democracy and individual human freedom.

Mr. President, the situation in Tibet continues to be one of the great quiet outrages of the 20th century. A Chinese occupation has killed, according to the Dalai Lama of Tibet, one-fifth of the people of that country.

I ask every American to consider the staggering implications of that fact. The Dalai Lama stood just a few feet from here in this Capitol Building just a few months ago and he told us that the Chinese had murdered 1,200,000 Tibetans out of a total population of 6 million people. That has not been disputed by the administration. Members of Congress, Republicans and Democrats alike, stood there and applauded the Dalai Lama, received the Dalai Lama. And today the administration proposes a policy that makes a mockery of the Dalai Lama and the tragedy of Tibet.

If taking over a country and murdering 20 percent of that country's population is not an appalling human rights record, then I ask someone in this Senate to tell me what is. If killing 20 percent of the entire population of a country does not stir the conscience of the American Government, does not provoke the U.S. Senate to action, then I ask one of my colleagues to tell me what will.

The Chinese policy has been to virtually destroy one of the world's oldest religious traditions in its own homeland of Tibet, and that policy continues today unchanged. Our State Department, the administration, reported earlier this year that demonstrations by Tibetans have been violently broken up by Chinese troops and the whereabouts of dozens of people in Tibet remain unknown. Tibetan refugees report torture and mistreatment in Chinese jails and detention centers.

Tibetan independence cannot even now be reflected in Tibetan religious practice. A new law apparently places

many religious activities under the control of the Government.

The State Department's report is echoed by the work of independent international observers. There is no credible evidence to the contrary; none has been suggested. It is simply ignored, as though if we do not talk about the people of Tibet, if we do not think about the people of Tibet, maybe the problem will go away.

Mr. President, the Chinese policy of eradicating the Tibetan culture and the Tibetan people and Tibetan independence forever continues today unchanged. How long should we hold out the hope that the people who are carrying out that policy will moderate it?

In every respect, our policy toward China should receive a careful evaluation as to its success. If it is not working, and I believe it is not, we ought to know that and change it. This bill provides a framework for examining serious questions about our policy toward China. This bill says that we cannot condition the extension of most-favored-nation status on the broad generalities that have been used in the past. It is time to examine the specifics, to measure each of them against the national interest at stake, to balance the importance of our national objectives against the costs and benefits of that policy.

This bill is not a restriction on the President or any intrusion into his conduct of foreign policy. It reflects the fact that any policy must be judged critically and methodically against the national interest it is meant to serve.

The bill gives the President 1 year in which to work with the Chinese leaders he knows so well to produce change in those human rights, trade, and weapons policy which now strain our bilateral relations. All that requires of the President is that next June, a year from now, if he should again conclude that the policy of granting favorable trade status to China is sound, that he report on the specific elements of that policy in terms of the results it has produced.

Such a report would include answers to several specific questions: Has the Chinese Government accounted for those citizens detained, accused, or sentenced because of the nonviolent expression of their political beliefs? Has the Chinese Government released citizens imprisoned for such expression? Has the Chinese Government stopped exporting products to the United States made by forced labor?

Has the Chinese Government ceased the supplying of arms and military assistance to the Khmer Rouge? Has the Chinese Government made significant progress in adhering to the joint declaration on Hong Kong, in preventing violations of internationally recognized human rights and correcting unfair trade practices? Has it adopted a national policy which adheres to the

limits and controls on nuclear, chemical, and biological arms production?

The answers to each of these questions reflect elements of the national interest which this policy, like all our policies, is designed to pursue. When we have those answers, we will all be in a better position to judge if the policy is succeeding.

The bill contains one additional, crucial provision designed to directly and promptly respond to the proliferation of missile technology.

Missile technology is extremely destabilizing when it is in the hands of nondemocratic governments whose relations with their neighbors are in a constant state of tension.

The national interest in a stable world is self-evident. We should not run the risk that another Persian-Gulf-type crisis could erupt, where civilian populations can be held hostage and the world community must respond to aggression.

The possibility of Chinese sales of certain ballistic missiles or launchers to Syria, Pakistan, and Iran is not conducive to global stability. Indeed, it is a clear and direct threat to regional peace.

Yet that possibility is far from remote. Intelligence reports as well as routine news stories have made that clear.

So the bill provides that 15 days after enactment, the President must certify to the Congress that such sales have not taken place. If, at any time after enactment the President determines that such sales have occurred, he is required to notify the Congress and to immediately terminate most-favored-nation trade treatment for products from the People's Republic of China.

The President has repeatedly said that our goal is to seek a world order based on the rule of law and the fundamental rights of man.

I agree. Such a world order would serve American interests. It is what our foreign policy is designed to produce. When a policy produces movement toward a world ruled by law, we should continue and expand that policy. When a policy does not produce that result, we ought to reexamine it. When a policy contributes to the opposite result, we should change it.

When our Nation first changed its policy toward recognizing the Government of the People's Republic of China 20 years ago, we made a policy reversal of enormous and difficult magnitude.

With the benefit of hindsight, few would argue that it was a mistake. It was not a mistake. With all of its subsequent ups and downs, the greater integration of China into the world community has had benefits for the people of the country and for the world community.

But there is an enormous difference in ending a policy of isolation which served neither American, Chinese, nor

world interests, and changing a policy which is not producing any good results.

We will continue to have a relationship with China. The question is what should be that relationship. Should it be one-sided, with Chinese manipulation and cynicism on one side and American frustration on the other? Or should we aim for a relationship in which both parties recognize that there are obligations that go along with the benefits of the relationship?

All the free governments in the world today recognize that they have international responsibilities as well as privileges. It is fair to apply to the Government of China the same standards we apply to other nations. Ultimately, that is what this bill seeks to do.

It is against our national interests to compound a mistake and continue a failed policy. I believe it is time to reexamine our policy and to change it if it shows no evidence of producing desirable results.

That policy reveal and that possible shift in policy is what this bill is designed to achieve. It deserves the support of every Senator who agrees that the expression of our fundamental interests worldwide must be clear, consistent, and forceful in every relationship.

Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Indiana [Mr. LUGAR].

Mr. LUGAR. Mr. President, I thank the Chair for recognition. I also thank the distinguished majority leader for an excellent statement in support of the legislation he has offered, but which I shall oppose.

I will quote extensively during my views this afternoon from testimony given by the Under Secretary of State, Lawrence Eagleburger, before the Senate Foreign Relations Committee, and from a letter written by the President of the United States on July 19, 1991, to the distinguished Senator from Montana [Mr. BAUCUS].

I excerpt from these documents liberally because they are the views of the President and his administration, and clearly the intent of the bill offered by the distinguished Senator from Maine is to offer an alternative foreign policy with regard to China.

At the outset, I quote from Secretary Eagleburger's testimony:

Promotion of fundamental human rights is and will persist as a cornerstone of our policy. Top administration officials, from President Bush and Secretary Baker on down, have stated this forcefully and repeatedly to senior representatives of the Chinese Government. The President of the United States was the first major world leader to condemn the crackdown on Tiananmen, and promptly indicated that, in such circumstances, there could be no "business as usual" with the Chinese. The United States today remains alone

among Western democracies in maintaining its Tiananmen sanctions against China and in refusing to restore normal relations until China makes substantial progress in addressing our human rights concerns. Without question, we have taken the strongest measures against China of any country in the world.

I underline that point, Mr. President, because the United States does remain alone, by itself, in maintaining our sanctions against China. That is a very serious point of our foreign policy, a very courageous and outspoken point, as a matter of fact.

We do not accept, therefore, the premise that what is at stake in the MFN debate is the administration's concern for human rights in China, or its desire to promote democratic reform. All Americans—in the administration, the Congress, and the public at large—are in agreement on these matters, as we are on the need to seek a stronger commitment from the Chinese on non-proliferation and on fair trade. The real issue, of course, is how we achieve these objectives. Our debate should focus, as President Bush stated recently at Yale, on selecting "a policy that has the best chance of changing Chinese behavior." We firmly believe that renewing China's MFN waiver—without conditions—provides our best instrument for promoting positive change and U.S. interests in China.

I make that point, Mr. President, because the position of the administration, the position that I will advocate today, is there should be most favored nation without conditions. The administration has not put forward a compromise. It has not stated that most favored nation for China with one, two, three, or five conditions would be acceptable.

Indeed, the debate today may be one in which the initial five conditions as I hear them the distinguished Senator from Maine are augmented by additional conditions offered by Senators in the form of amendments. The administration will not be in favor of any of the conditions. We are in favor of an unconditional MFN, and we favor this simply because to have the sword of Damocles hanging over American business, over our tourism, over our exchange students' going back and forth, over all of the elements of our bilateral relationship, is to jeopardize and undermine the planning of Americans and Chinese. Foreign policy simply cannot operate under such conditions.

The mechanistic termination of most favored nation through conditionality in the legislation that the Senator from Maine has proposed is unacceptable to a President; he has authority to maintain the stability of foreign relations by offering certainty to those in our body politic, in our business world, and in our human rights communities.

As Secretary Eagleburger pointed out:

I would urge at the outset that the Congress resist the temptation to seek a middle-ground solution by extending MFN with conditions. We believe such a solution to be illusory and a recipe for failure. Throwing down

the gauntlet with a public ultimatum on MFN—indeed, one specific to China—would only make it easier, not harder, for conservative Chinese leaders to claim that national honor and sovereignty precluded any concessions. Our credibility would then require us six months or one year from now to terminate MFN if China failed to meet each and every condition imposed.

Let us be honest with ourselves. Let us confront today the real issue which the debate on conditionality would only delay for a short period of time—namely, whether to extend MFN on its own merits and without conditions, or to terminate it.

As I will explain, the administration supports the extension of MFN because it believes that an open China is key to our eventual hopes for a more democratic China. MFN has become over the past 11 years an underlying structural component of our relationship, which has facilitated our ability to engage the Chinese on a broad range of issues and has allowed us selectively to apply sanctions targeted to our specific differences. MFN itself is simply not the vehicle we should use to exert pressure on the Chinese with regard to particular issues. To place conditions on MFN would hold our single most powerful instrument for promoting reform hostage to the reactions of the hardliners in Beijing.

In short, the administration fervently believes that MFN is of fundamental value in promoting positive change in China. That fundamental value will not change 6 months or 1 year from now, and that is why we also fervently believe that MFN should be extended without conditions.

Mr. President, the President of the United States has attempted to respond very specifically to the elements of the bill introduced by the distinguished Senator from Maine. He has done so in the form of a letter to Senator BAUCUS of Montana. Senator BAUCUS and 14 other Senators, of which I was one, queried the President on very specific charges that have been raised by Senators and others about our relationship to China. The President responded to our inquiry:

I appreciated receiving your views on the importance of renewing China's most-favored-nation [MFN] trade status while also seeking to achieve progress with the Chinese on issues of vital concern to the American people. We clearly share the same goals. We want to see China return to the path of reform, show greater respect for human rights, adhere to international norms on weapons sales, and practice fair trade. China should contribute to international stability and not detract from it.

You rightly note that withdrawing MFN would hurt not only Americans but also the people of Hong Kong and the millions in China who are working for progressive change. Continuing MFN is essential to protect American consumers and exporters, and to support the economic forces that have been driving reform in China for more than a decade. It is no accident that the process of reform accelerated with the increase in foreign businesses operating in that nation. Those who would end political and economic reform in China have the most to gain if MFN were withdrawn. It is the economic forces pressing for the loosening of state control and increased personal freedom that would suffer the most. Other losers would be the thousands of American workers and

farmers who together produced in 1990 almost \$5 billion in exports to China.

Since we started the process of normalizing contacts with China in the 1970's, there has been strong bipartisan support for the United States relationship. Building on the three United States-China communiques, United States interaction with the government and people of China has produced demonstrable progress. That interaction must continue despite the recent severe setbacks. Nevertheless, I support the view that strong measures are needed to address our concerns in China and have not hesitated to use them in a targeted fashion. To underscore our deep dismay about human rights violations, I have kept in place a number of sanctions since the Tiananmen Square crackdown which have affected arms sales, high-level contacts, U.S. economic programs and U.S. support for multilateral development bank lending to China.

The United States is currently the only nation maintaining its Tiananmen sanctions and refusing to normalize relations until China makes substantial progress on human rights. For example, while all our allies and other World Bank members have supported virtually all of the last 16 World Bank loans to China, we have declined to support seven because the loans would not serve basic human needs.

At the London Summit, we raised China's human rights practices with our G-7 allies and encouraged them to continue to stress to China's leaders, as we have repeatedly, the importance that democratic governments attach to human rights. We made clear that the United States will continue its policy of supporting only those multilateral development loans for China that serve basic human needs [BHN], and our view that any non-BHN lending to China help to promote market-oriented economic reform.

To advance our nonproliferation objectives, I recently authorized a number of steps aimed at engaging the Chinese on their weapons transfer policies and making clear our dissatisfaction with transfers that contribute to regional instability. The Under Secretary of State for International Security Affairs recently traveled to Beijing for a detailed discussion of nonproliferation issues, including our specific concerns about Chinese exports. He pressed for China's adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime, actions I called for in my commencement speech at Yale University on May 27. We are pleased with the constructive role China played in the July 8-9 Middle East arms control talks in Paris. The Chinese endorsed all the key objectives of my Middle East arms control initiative, such as efforts to freeze and ultimately eliminate surface-to-surface missiles and block the production and acquisition of nuclear useable material. The Chinese also agreed to work rapidly in follow-on meetings to flesh out the broad agreements reached in Paris.

At the same time, I have also taken measures to emphasize to China that the United States is concerned about reports of destabilizing missile-related transfers. In April, I rejected requests for licenses to export satellite components for a Chinese communications project because of the involvement of Chinese companies in unacceptable missile equipment transfers. Just recently, I approved trade sanctions against two Chinese companies for that same reason. In addition, I directed that no further licenses of high-speed computers and no further exports of satellites to China be authorized until our

concerns that China adhere to accepted international nonproliferation standards are satisfactorily addressed. The United States will be coordinating with other countries in order that these measures not be undercut. Our experience has demonstrated that such consultations will lead to effective, multilateral technology transfer restrictions.

I have also instructed U.S. agencies to press vigorously our concerns about Chinese unfair trading practices. In April, I directed the U.S. Trade Representative to identify China as a priority foreign country under the Special 301 provisions of the Trade Act for failing to protect U.S. intellectual property rights. If China does not make real progress during the 301 investigation, trade action will follow. Beyond intellectual property protection, my Administration has invited senior Chinese trade officials to Washington in August for continuation of consultations begun in June regarding access for U.S. products to the Chinese market. If these talks fail to produce Chinese commitments to take substantial measures to improve market access, the Administration will self-initiate further action under Section 301 of our trade laws.

We are strictly enforcing the terms of our textile agreement with China and have already made charges against China's quota because of illegal textile shipments through third countries totalling approximately \$85 million so far. Following consultations in July, we expect to make additional charges. If China does not exert effective control over these illegal shipments, we are prepared to take additional action against China.

Charges that China exports goods produced with prison labor are a matter of serious concern. The Customs Service is investigating these charges. In addition, we have obtained a firm high-level commitment to prevent the sale of prison labor products to the United States. We will continue to monitor China's behavior in this area closely and will strictly enforce relevant legislation concerning prison labor exports. In particular, I am ordering the following additional measures: The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor. The denial will continue until the Chinese Government or the Chinese exporter provides credible evidence that the products were not produced by prison labor.

I am also instructing the U.S. Customs Service to identify an office to receive information on prison labor exports and establish producers for the prompt investigation of reports of prison labor exports from interested parties. Additional customs officials will be directed to identify prison labor exports and aid in uncovering illegal textile transshipments.

Although it is not directly related to China's MFN status, I share your interest in Taiwan's accession to the GATT. As a major trading economy, Taiwan can make an important contribution to the global trade system through responsible GATT participation. The U.S. has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Tai-

wan's GATT accession. Because China, our tenth largest trading partner, could also make an important contribution to the global trading system, I will seek to have the Chinese Government take steps on trade reform so that China's GATT application can advance and its trade practices can be brought under GATT disciplines through the Working Party formed for China in 1987. U.S. support for Taiwan's accession to GATT as a customs territory should in no way be interpreted as a departure from the long-standing policy of five administrations which acknowledges the Chinese position that there is only one China, and that Taiwan is part of China.

In sum, therefore, I am prepared to address the concerns you and your colleagues have identified, and I am doing so. But discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to American interests and would render futile pursuit of the initiatives I have outlined, which are discussed in greater detail in the attachments. Working together, I believe we will best protect America's interests by remaining engaged with China and the Chinese people.

Sincerely,

GEORGE BUSH.

P.S.—At the recently concluded G-7 Summit in London, the leaders of these Western Democracies all urged renewal of MFN.

The President referenced in the conclusion of his letter, various attachments. I want to touch upon some of the elements of those attachments, because they are a very important set of documents in their own right, setting forth the achievements of this administration.

Human rights concerns have been at the heart of our relationship with the People's Republic of China since the tragic events of June 1989. Every high-level meeting since that time has at least touched on human rights issues, and several—such as the December 1990 visit to China by Assistant Secretary Schifter—have been devoted exclusively to them. We have consistently stressed to the Chinese leadership that there can be no return to the kind of relationship we enjoyed before 1989 without substantial improvements in China's human rights practices.

Our overall approach on human rights issues has consisted of:

PUBLIC EXPRESSION OF CONCERN

President Bush condemned the brutal suppression of demonstrations in Tiananmen Square in June 1989, the first world leader to do so. He declared May 13, 1990, a National Day in Support of Freedom and Human Rights in commemoration of the 1989 demonstrations, and issued another statement to mark the anniversary of the crackdown in 1991.

In our human rights reports for 1989 and 1990, we were fair but hard-hitting, and as accurate as available information would allow. These reports have drawn high praise from human rights groups, and harsh condemnations from the Chinese Government.

The State Department issued a statement on January 9, 1991 condemning the trials of nonviolent dissidents.

In April 1991 the President met the Dalai Lama at the White House to demonstrate our respect for His Holiness' nonviolent approach to conflict resolution and our concern for human rights problems in Tibet.

SUSPENSION OF BILATERAL PROGRAMS

On June 6 and June 20, 1989, the President announced the suspension of a number of bilateral programs and changes in United States approach to multilateral issues until the human rights climate in China improved. Those suspensions generally remain in effect.

A multitude of high-level exchange visits that would normally have taken place since 1989 have been canceled. Only a very limited number of visits at and above Assistant Secretary level have been approved on a case-by-case basis, and only when they addressed issues of key concern to the United States; and so forth, like human rights, nonproliferation, unfair trade practices, and narcotics.

Military exchange visits have been suspended completely.

Work on several existing military equipment and technology projects has been suspended indefinitely.

We have stopped the transfer of military or dual-use equipment or technology to Chinese military and security services.

The United States sought to postpone all multilateral development bank loans to China from June 1989 to January 1990. Since then, we have supported only those loans that serve the basic human needs of the Chinese people.

We have suspended grants, loans, and insurance guarantees to China under the Trade and Development Program and OPIC.

We have worked through Cocom to suspend planned liberalization of export controls to China.

ENGAGEMENT IN DIALOG

Through the few high-level visits that have been authorized, and through regular diplomatic channels, we have engaged the Chinese Government in an unprecedented continuing dialog on a wide range of human rights issues.

The Scowcroft-Eagleburger missions of July and December 1989 were devoted primarily to laying out our human rights concerns and suggesting steps the Chinese could take to address them.

During Chinese Foreign Minister Qian's visit to Washington in November 1990, President Bush and Secretary Baker reiterated the need for progress on human rights, and stressed that human rights is a cornerstone of American foreign policy.

Assistant Secretary Schifter visited China in December 1990, the first time our top human rights official has done so. In 16 hours of intense discussions with senior Chinese officials, he spelled out in detail our human rights con-

cerns in a wide range of areas including accounting of detainees, release of political prisoners, denial of due process and fair and open trials, treatment of prisoners, divergence of Chinese law from international standards, respect for freedom of religion, abusive implementation of family planning regulations, and human rights problems in Tibet. He delivered a list of 151 representative cases of reported political incarceration, and asked Chinese authorities to clarify the status of the cases and release those whose imprisonment violated international norms. He suggested changes in Chinese laws and judicial processes that would bring them into conformity with international standards.

Under Secretary Kimmitt in May 1991 reiterated many of the points made by Assistant Secretary Schifter, and called on the Chinese Government to declare an amnesty for all those imprisoned for nonviolent political activities. He also urged the Chinese to implement effectively their claimed prohibition on export of prison labor products.

I make the point with regard to the detainees, Mr. President, that there is no way of verifying how many detainees there are in the People's Republic of China. Quite apart from their status, to adopt a mechanistic formula for identifying the detainees, for releasing them and accounting for them, is to beg the issue of how we would know what the verification procedures could be. We have identified all that we know by name and have made very specific representations to try to release them.

Mr. President, in addition to the human rights dialog entered into by the administration, it is important, also to talk about the Chinese response.

RESULTS OF ACTIONS

Most importantly, the Chinese Government has acknowledged the legitimacy of human rights as a subject of bilateral discussion, both with us and with other concerned governments. They received a congressional delegation devoted exclusively to human rights concerns in March 1991, and agreed to receive another later this year. They also agreed to receive human rights delegations to be sent by the Governments of France and Australia. In addition, they have taken a number of modest but positive steps to improve the human rights situation in China.

Martial law was lifted in Beijing in January 1990 and in Lhasa 4 months later. No part of China is currently subject to martial law.

Most of those detained after the Tiananmen tragedy were released by the end of 1989. Chinese authorities announced the release of nearly 1,000 more detainees in 1990, and about 70 have been released so far in 1991. Officials claim that only 21 still await trial

detention in Beijing, and at least one of these, labor leader Han Dongfang, has been released for medical treatment.

While at least 30 persons have been convicted on political charges since the beginning of the year, the sentences meted out to them were generally less severe than those imposed on similar charges in previous years. Those released without further punishment included prominent dissidents such as essayist Liu Xiaobo, journalist Zhang Weiguo, playwright Wang Peigong, and legal scholar Chen Xiaoping.

Leading dissident Fang Lizhi and his wife, who had obtained refuge in the United States Embassy in Beijing for over a year, were allowed to leave China in June 1990, and are now at Princeton University.

Most investigations of those involved in the 1989 protests have ended, and most of our Chinese contacts report that the oppressive atmosphere of 1989 has lifted significantly.

The Chinese have ceased the most odious forms of harassment of Chinese students and scholars in the United States; harassment was a serious problem in 1989 and early 1990.

Relatives of many, though not all, overseas dissidents have been allowed to leave China and join them abroad. In some of the remaining cases that we have raised with Chinese officials, passports have subsequently been issued.

Several released dissidents, including Tiananmen hunger striker Gao Xin and former Arizona State student Yang Wei, have been allowed to leave the country.

Chinese authorities have undertaken to stop the export to the United States of products made in Chinese prisons. We will continue to monitor this situation closely, but it appears that the Chinese Government is taking increasingly specific steps to enforce their prohibition on export of these products.

In response to concerns expressed by administration officials and Members of Congress, the Chinese have provided useful new information on the status of persons reported detained for religious activities.

Economic reforms have resumed, in some cases matching or exceeding levels reached before 1989. Some limited political reforms, in important but relatively noncontroversial areas such as the personnel system, have continued. An administrative procedure law that became effective in October 1990 for the first time enables Chinese citizens to sue abusive officials.

There are indications that further progress may be in the offing. We are continuing to press the Chinese Government to release all remaining detainees, to commute the sentences of those nonviolent dissidents already convicted, and to allow the departure

of the remaining relatives of overseas dissidents who wish to leave. We are hopeful that a combination of dialog and specifically targeted pressure will lead to further movement on these and other remaining issues of concern. And in the longer term, we are confident that the momentum toward greater freedom and democratization in China, built up during the decade of reforms and dramatically reflected in the 1989 demonstrations, will prove irreversible.

Mr. President, the administration would contend that these are significant, though modest steps. They are the result, in most cases we would contend, of very concerted negotiations by the United States of America and the sanctions put in place after the Tiananmen Square incident which, as I pointed out earlier, we alone have maintained.

The administration is also deeply concerned about the proliferation issue. The United States is engaged in a high-level dialog with the Chinese that began early in our relationship. Looking at the broad trends in China's nonproliferation policy since normalization in 1979, it is clear that our dialog has paid off in important areas, demonstrated by China's evolution toward international consensus on nonproliferation in areas of great importance to us. For example, China, which once held an antagonistic view of multilateral controls on nuclear exports, joined the IAEA in 1984 and sent observers to the Nuclear Nonproliferation Treaty Review Conference in 1990.

MIDDLE EAST/SOUTH ASIA

China's support for the Middle East arms control initiative is another case in point. China's participation in the initiative is a positive step that will strengthen international nonproliferation efforts and indicates China's resolve to contribute to efforts to attain stability in the Middle East. In addition, China's willingness to participate in multilateral efforts to reduce tension in South Asia will be crucial to establishing stability in that volatile region.

Moreover, we have seen Chinese arms sales restraint in some areas where we have vital interests. For example, to the best of our knowledge, apart from the 1987/88 sale of missiles to Saudi Arabia, China has not delivered medium-range missiles to the Middle East. It is clear that in other specific cases China has taken international concerns into account and declined proposed missile exports to prospective buyers.

UNDERSCORING OUR CONCERNS

It is because serious concerns remain that we want to maintain a constructive nonproliferation dialog with Beijing. We do not intend to ignore current problems, but isolating China by dismantling the framework for our relations is not the way to advance our nonproliferation objectives.

We have the means available to underscore our concerns where there are differences in our approaches to non-proliferation and we have used these legislative and executive branch tools. For example, we have imposed trade sanctions mandated by the National Defense Authorization Act on Chinese entities involved in missile-related activities. We have also announced the Administration's decision that, pending progress toward our nonproliferation objectives, we will not license high-speed computers and will not issue further waivers of legislative restrictions on satellite exports. These new sanctions have been imposed in addition to the existing sanctions announced immediately following the June 1989 assault on Tiananmen and amplified by Congress in the Department of State Authorization Act for Fiscal Year 1990-91. Moreover, we have not certified China under the bilateral agreement for nuclear cooperation that took effect in 1985.

Our policy mix of sanctions and cooperation at any given time is necessarily dependent on Chinese behavior. We are encouraged by China's indication in June that it is reviewing its policies with respect to Missile Technology Control Regime [MTCR] and the NPT. We seek China's adherence to the NPT and the MTCR guidelines and will encourage the Chinese to take concrete steps toward adherence to the key multilateral standards for international behavior established by these institutions. The administration will continue to use the legislative authority that already exists and will take resolute action if the Chinese do not address favorably our nonproliferation concerns.

A central concern has been trade and other economic issue. The administration is committed to achieving with China the same goals that have guided our trade policy with all other countries. We seek open markets and the opportunity for U.S. firms and their products to compete on fair and equal terms. To achieve these goals, and realize the principles of equality, mutual benefit, and nondiscrimination set forth in the United States-China Bilateral Trade Agreement, this administration has pursued a policy of negotiation and engagement on trade issues with China. In particular, the administration has sought to improve United States access to China's marketplace; to bolster Chinese protection of intellectual property; to end fraudulent practices by Chinese textile exporters using false country of origin declarations; and, to induce Beijing to undertake the economic and trade reforms required for membership in the GATT.

Reciprocal MFN tariff treatment underpins our ability to work constructively with the People's Republic of China. China's desire to retain access to the United States market has enabled us to engage Chinese leaders even

during periods of tension. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to our trade interests and erode our ability to influence China's behavior on key trade issues.

THE PAST DECADE OF BILATERAL TRADE RELATIONS

After decades of adhering to an import-substitution strategy that focused on minimizing China's reliance on outside sources of machinery and equipment, China began in the 1980's to seek outside sources of these goods. It also has increasingly drawn on foreign technology, expertise, and funds by actively encouraging joint ventures.

China's opening to the outside world has helped transform its economy, bolstering reform-oriented sectors that are not directly controlled by the central government. For example, the state sector now produces just over half of China's industrial output; in 1978, its share was 78 percent. China's dynamic rural industries, which are privately and collectively owned, have burgeoned. There are 30,000 foreign-invested ventures now in China, with a total contracted value of \$40 billion. The impact of China's open door has been particularly pronounced in the southern and coastal provinces, where 90 percent of the foreign investment and more than three-fourths of China's trade activities are located. This region, in turn, has become the primary engine of economic reform in China largely as a result of the introduction of market concepts to Chinese employees of joint ventures and to citizens engaging in commercial exchanges with the West. The economic autonomy fostered by this interaction contributes to increased political and even individual self-determination.

The United States has been a vital partner in this transformation. Following congressional approval of the bilateral trade agreement, the United States and China established formal trade relations and reciprocally granted most-favored-nation [MFN] status in 1980. Growth in our commercial ties has helped to change China and to bring it into the global trading system. Since the resumption of normal trade relations, United States-China two-way trade has increased almost 770 percent, from \$2.3 billion in 1979 to over \$20 billion last year.

We are now China's second-largest trading partner and its largest export market.

China is our 10th largest trade partner, up from 15th in 1981.

Over 1,000 United States firms have invested more than \$4 billion in China and another \$5 billion in Hong Kong related primarily to trade with the PRC.

In 1990, the United States exported 4.8 billion dollars' worth of goods to China, including: 749 million dollars' worth of aircraft; 544 million dollars' worth of fertilizer; 512 million dollars'

worth of grain; 281 million dollars' worth of cotton yarn and fabric; 273 million dollars' worth of chemicals; 264 million dollars' worth of electric machinery; 238 million dollars' worth of wood and wood pulp; and 227 million dollars' worth of scientific instruments.

Commercial relations with the United States have exerted positive influences on China's business and economic practices since 1980. China has shifted away from total reliance on a strongly centralized economy, shown greater tolerance for experimentation with market mechanisms to regulate its domestic economy, and decentralized and liberalized its foreign trade practices.

REGRESSION IN CHINA'S TRADE POLICIES

China's opening to the outside world has not been smooth. Over the past decade, attempts to accelerate the implementation of market-oriented reforms have been followed by Beijing's recentralization of control, as concern about the country's ballooning trade deficit led Beijing to step in to regain some of the trade authority it had relinquished.

Moreover, throughout the period since the normalization of trade relations and the granting of reciprocal most-favored-nation trading status in 1980, China's web of barriers to imports has made it difficult for many United States exporters to gain access to the Chinese market. U.S. firms have also had difficulty securing protection for their intellectual property.

United States trade negotiators have long been engaged with the Chinese Government, both in bilateral negotiations and in multilateral consultations at the GATT held to review China's application for membership. We have sought to ensure that bilateral commercial relations develop in accord with the principles that underlie our bilateral trade agreement: Equality; mutual benefit; and nondiscrimination. From 1979 through 1987, Chinese authorities made some progress in reducing nontariff barriers to imports, in improving transparency, and in protecting the intellectual property of foreigners.

This trend has been reversed over the last 3 years.

Since 1988, Chinese trade policies and practices have become more protectionist, nontariff barriers to imports have proliferated, and the trade system has become less transparent. These policies undoubtedly contributed to a 17-percent decline in United States sales to China in 1990. China was the only major foreign market for United States goods and services in which our exports declined in 1990.

Despite intensive bilateral negotiations with Chinese authorities since the USTR in 1989 placed China on the priority watch list of countries providing inadequate intellectual property protection—including three rounds of

meetings over the past 5 months—China has failed to live up to the commitments contained in the bilateral memorandum of understanding [MOU] signed in May 1989.

At the same time, other problems have developed in our bilateral trade relationship. For example, to bypass United States textile and apparel quotas, Chinese exporters have increasingly resorted to shipping these products to the United States via third countries using false invoices and counterfeit visas. Also of concern to us has been the apparent lapse in China's commitment to economic and trade reforms that would bring the country in line with the GATT's free-trade principles. China's reassertion of central control over the past few years has called into question its willingness and ability to undertake the obligations that would be required of China as a contracting party to the GATT.

STEPS THE U.S. GOVERNMENT HAS TAKEN AND WILL TAKE TO ADDRESS BILATERAL TRADE PROBLEMS

In six key areas of our bilateral trade and economic relations, the administration has taken steps to resolve trade problems. We are prepared to do more.

ON MARKET ACCESS

Beginning in the fall of 1990, the administration resumed subcommittee level meetings with the Chinese, that had been suspended since June 1989, to secure Chinese actions to reverse the growing list of new protectionist measures.

In April 1991, the administration formally set in motion a market access initiative that continued with the visit to Beijing, in mid-June, of an inter-agency delegation to discuss market access issues. In meetings with senior Chinese officials, United States Government officials raised nine types of market access barriers, including: The lack of transparency in rules and regulations; the expansion of import licensing requirements; the use of import substitution policies; the proliferation of import bans and quotas; the growth of standards, testing, and certification requirements, including discriminatory quality standards procedures for imports; the high level of many import tariffs; the unnecessary use of certain phytosanitary regulations; the uncertainties regarding government procurement and tendering regulations; and the lack of information regarding China's major development projects.

The administration has proposed holding another round of market access consultations in August 1991. If that round of negotiations fails to yield substantial commitments from the Chinese authorities to dismantle market access barriers, the administration will self-initiate section 301 action to address those barriers the removal of which offers the most potential for achieving United States trade policy

objectives and increasing United States exports.

ON INTELLECTUAL PROPERTY PROTECTION

On April 26, 1991, USTA identified the People's Republic of China as a priority foreign country that denies adequate and effective protection of intellectual property rights. Accordingly, on May 26, 1991, USTA initiated a special section 301 investigation on the basis of four problem areas: First, inadequate copyright protection; second, inadequate patent protection; third, inadequate trade secret protection; and fourth, ineffective enforcement of trademarks. Consultations with the Chinese are ongoing. The first round of consultations under the section 301 investigation occurred in mid-June and a second has been proposed for August.

The deadline for making a determination under section 301 is November 26, 1991. This may be extended for 3 months if China is making substantial progress in drafting or implementing measures that will provide adequate and effective protection of United States intellectual property rights. At that time, the USTR must determine whether the acts, policies, and practices of the People's Republic of China are actionable under section 301 and what retaliatory action, if any, is appropriate.

If the consultations fail to produce adequate and effective protection of intellectual property rights, the administration will take retaliatory action.

ON TEXTILE TRANSHIPMENTS

The United States Customs Service has been vigilant in documenting cases of Chinese textile transshipments over the past year.

In August 1990, USTR held consultations with Chinese authorities on the transshipment issue. Additional consultations took place in November 1990, March 1991, and May 1991.

The United States Government charged China's quotas for goods that were sent to the United States under false country of origin declarations valued at over \$85 million.

China has begun to take actions to curtail textile fraud since the December charges were made. For example, it issued regulations prohibiting reexports through a third country to countries that have signed textile agreements with China. Further, the Chinese Government has issued provisions for the punishment of those who violate the regulations.

The administration has prepared more charges valued at about \$14 million that we anticipate will be levied after consultations with China next month.

The administration will increase the number of U.S. Customs officials dedicated to investigating circumvention.

If transshipment persists, we will be prepared to take additional action against China.

ON FORCED LABOR

The importation of goods produced with forced, convict, or indentured labor is prohibited by 19 U.S.C. 1307, which also directs the Secretary of the Treasury to prescribe regulations for enforcement of the provision. The Secretary of the Treasury, under 19 CFR 12.42, has delegated to the Commissioner of Customs, authority to determine that a class of goods is the product of forced labor and exclude those goods.

Customs has been investigating imports alleged to be the product of forced labor in China. Customs has interviewed emigres about forced labor practices in China. Customs is also analyzing import samples to determine if they match the descriptions provided by the emigres and others. Additional special agents have been detailed to Hong Kong to assist in the investigation.

Although the letter from Senator BAUCUS and 14 cosponsors did not specifically address the issue of prison labor imports, appropriate action is called for to fulfill the intent of existing law. The administration therefore proposes to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific products exports to the United States are being produced by prison labor.

Pending negotiation of the MOU, Customs will temporarily embargo specific products from China when there is reasonable indication that they are made by prison labor. Embargoes will be lifted only after the Chinese Government or the Chinese exporter provides credible evidence that the products are not produced by prison labor.

MULTILATERAL LENDING TO CHINA

The G-7 consensus, led by the United States, was successful in prohibiting all MDB lending to China from June 1989 to February 1990 in response to the international outcry against the crackdown by the Chinese authorities at Tiananmen Square.

From February 1990 to July 1990, the G-7 consensus supported a gradual resumption of World Bank lending to China for projects that clearly met basic human needs [BHN]. The consensus held firm and actively prohibited other loans from Board consideration. Only five loans—totaling \$590 million—were approved in World Bank fiscal year 1990. This is substantially less than pre-Tiananmen Square levels of World Bank commitments to China, which were \$1.4 billion in World Bank fiscal year 1988 and \$1.3 billion in World Bank fiscal year 1989.

At the Houston summit in July 1990, several G-7 countries decided that China's long-term development needs argued for lending outside the BHN limits favored by the United States. Accordingly, the G-7 Houston Summit Declaration of July 1990 on MDB lend-

ing to China expanded the boundaries of permitted MDB lending to China to include loans which were environmentally beneficial or which supported market-oriented economic reform. Only BHN loans were considered by the World Bank Board until December 4, 1990, when the market oriented economic reform loan for rural industrial technology was approved by the Board. On November 29, 1990, the ADB approved its first loan to China since Tiananmen Square, Agricultural Bank Project, which the United States did not support. Despite the approval of infrastructure project loans by the World Bank and the Asian Development Bank, the United States has and will continue to withhold support on all loans that do not meet BHN criteria.

ON GATT ACCESSION

Since China applied for GATT membership in July 1986, the United States has been a leading participant in the collective efforts of major GATT contracting parties to develop terms for China's GATT participation that will support the objectives of the GATT and will influence Chinese Government policies to become, over time, more compatible with the GATT framework for world trade.

United States and other major GATT contracting parties' concerns about China's ability and willingness to live up to GATT obligations, particularly since June 1989, have stalled progress in the working party established to consider China's application for membership in the GATT.

The administration intends to continue to press Beijing to undertake trade and economic reforms so that its GATT application can advance and its trade practices be brought under GATT disciplines.

At the same time, the administration will begin to work actively with other GATT members to resolve in a favorable manner the issues relating to Taiwan's accession as a customs territory would be consistent both with GATT legal criteria and the one-China policy which acknowledges the Chinese position and has been adhered to by successive United States administrations.

Taiwan's GATT accession would yield substantial trade and commercial benefits to the United States and to the international trading system.

Taiwan has indicated that it is prepared to accede to the GATT as a developed economy, to bind virtually all its tariffs, and to join the major non-tariff measure GATT codes.

THE IMPORTANCE OF MFN

As highlighted above, the administration is aggressively seeking to resolve outstanding bilateral trade issues with the People's Republic of China. MFN underpins our ability to work constructively with the People's Republic of China. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause seri-

ous harm to our trade interests, and would render futile pursuit of the initiatives outlined above.

It would reduce our leverage in market access, intellectual property rights protection, and other trade-related negotiations. China's desire to retain access to the United States market has enabled us to engage Chinese leaders in consultations on bilateral and multilateral issues even during periods of tension. Because China is not a GATT member and not bound by GATT trade disciplines, it is especially important to have many levers that enable us to engage the Chinese on trade issues.

It would hurt U.S. exporters. If the United States rescinds China's MFN trading status, China will not only discontinue MFN tariff treatment for the United States, but would likely cease purchasing billions of dollars of United States wheat, aircraft, fertilizer, cotton yarn and fabric, wood and wood pulp, electric machinery, scientific equipment, and chemicals. Foreign competitors, whose goods would be subject to lower tariffs, would be quick to exploit our departure. Lost shares of China's market would not easily be regained even if MFN were restored at some future date.

It would hurt U.S. consumers. Tariffs on the 25 most important United States imports from China would rise from the present average tariff rate of 8.8 percent to an average rate of 50.5 percent. These increases would mean sharply higher prices for lower-end Chinese goods. The costs to United States consumers would be largely borne by poorer Americans, who are primary consumers of low-cost Chinese products.

It would damage America's reputation as a reliable trade partner. Our trade competitors will not join us in denying MFN status to China. Other Chinese trade partners, especially in Asia, urge that China's MFN status be retained.

It would hurt investors, businesses, and workers in Hong Kong. Loss of MFN would impede China's integration into the regional economy, a development crucial to regional stability particularly as we near the 1997 deadline for Hong Kong's reversion to Chinese sovereignty. It could cost 43,000 jobs in Hong Kong and result in direct revenue losses of approximately \$1.2 billion. Hong Kong's GDP growth could be curtailed by as much as 2 percent.

It would set back efforts to bring about meaningful economic reform in China. A disproportionate burden of the MFN denial would fall on the primary engine of economic reform in China—the economies of the southern and coastal provinces. In Guangdong province, for example, 40 percent of industrial output is produced for export, half of which goes to the United States. Sectors that fall outside of the direct control of the central government have

been especially important to China's development as an exporter; one-third of China's exports currently come from rural—individual and collectively owned—industries and from foreign-invested ventures. The foreign ties these provinces and nonstate-owned factories developed with the outside world prior to Beijing's reassertion of central control in mid-1989 enabled these provinces to weather the austerity program; without these foreign markets, Beijing's grip would have been all the tighter. As Beijing's influence over the regions and sectors most closely integrated into the global economy has diminished, these regions and sectors have become increasingly sensitive to global economic conditions. Revocation of China's MFN trading status would cause unemployment to rise and factory losses to mount in export-producing regions.

CONCLUSION

Those who engineered the violence in China in June 1989 are unlikely to bear the economic costs associated with the denial of MFN. Instead, those who suffer would be American businesses and their employees, American consumers, and the people of Hong Kong and the progressive area of China.

China's opening to the outside world over the past decade has accelerated growth in the nonstate sectors of the economy; resulted in strong links between China's coastal regions and the global economy that have enabled this reformist region to weather Beijing's periodic efforts to reimpose central government control over economic activity; and introduced market concepts to a generation of Chinese managers involved in joint ventures, trade negotiations, and training in the West. For this process to continue, China's most-favored-nation treatment in the United States is essential.

Mr. President, the administration has taken the steps, as I have pointed out, with regard to forced labor, with regard to multilateral lending, with regard to textile transshipment, with regard to GATT accession. But it is important, Mr. President to underline this testimony, and to point out how engaged the administration is in all of these issues.

When most-favored-nation status was given to China during the Carter administration, charges were made that the Chinese regime was a brutal, uncaring regime without much concern with democratic values and values of human rights that we care about in the United States, charges were made that China was a centralized government with 78 percent of its economy accounted for in the centralized public sector.

I simply point out, Mr. President, that the road has not been smooth, but the path has been one of active engagement through diplomacy and through tough talk as was required. I do not

know any country more influential than the United States with regard to Chinese relationship. We are, as I pointed out, now in a relationship that is much more complex for the United States in terms of our commerce, as well as our idealism.

I would just simply conclude, Mr. President, by pointing out that the debate that we are having today resumes from time to time simply because we are disgusted with particular practices and, as free Americans, we speak our mind, whether it is a domestic or foreign situation.

But I quote once again Secretary Eagleburger's wisdom in his testimony before the Foreign Relations Committee when he said:

The fact of the matter is that we have the necessary policy instruments to address aggressively and in a targeted fashion each of the issues of concern to us—and we are doing just that. The granting or denial of MFN does not relate directly to any of these problems. Even on the issue of our trade deficit, no economist to my knowledge has ever suggested that MFN status can be the cause of such a deficit, or that its denial would solve the problem.

We remain convinced that denying MFN to China would not put pressure on the Chinese to change their behavior in specific areas. Instead, it would undercut our ability to engage them and thereby influence their actions. Withdrawal of MFN would impose a broad, blunt sanction on the Chinese people, punishing equally and indiscriminately the progressive entrepreneurs and the ideological hardliners. We advocate instead the continuation of selective application of pressure directly on the issues and people of concern to us. To borrow an analogy from the military, we should use smart instruments targeted on specific problems with China, rather than an instrument of indiscriminate effect, such as MFN.

For these reasons, Mr. President, I am hopeful that the Senate will reject the legislation before us, and that it will give the President the ability to continue the MFN status without conditions and that we will endorse the very strong efforts taken by the administration in each of the critical areas that have been raised in this debate and by sensitive Americans deeply interested in our relationship with China.

I thank the Chair.

Mr. BENTSEN. Mr. President, this debate today is about more than China's most-favored-nation status. It is about the kind of relationship this country is going to have with China in the decades to come. It is about what kind of country China is going to be as it emerges and seeks the benefits of participation in the economy of the world.

Make no mistake about what is at stake here. It is not just how we are going to treat China today or 1 year from today. It is about the kind of foundation that we are going to lay for our relations with China in the decades to come.

We have to get that right because China is simply too big to ignore. If we turn to blind eye to human rights abuses in China, what we are really doing is consigning over a billion Chinese citizens to a life without dignity or freedom.

If we permit China to block our exports to them, we risk seeing it become another Japan, an export-driven economy whose markets remain impenetrable to our most competitive exporters. Take a look at the potential. China has a population eight times that of Japan, and a potential work force and market certainly to match.

I can recall the story about Napoleon who was asked about a policy decision toward China. He said, let that giant sleep. China is not going to sleep. It is emerging and it is on the move. We cannot afford to take a hands-off approach to China. It is too important to the future of this country and to the future of the world.

Since 1980, the United States has granted most-favored-nation status to China. For China, that privilege is conditioned on free emigration and its record in allowing people to leave China freely. That standard represents one of the most basic of human rights. From it flows other human liberties, because no country can allow free emigration while repressing the democratic hopes and aspirations of its people.

Each year since 1980, the President has determined that continuing China's most-favored-nation status will promote the right of free emigration for the Chinese people. The President has made that determination again this year. And it is our job in the Congress to review that decision.

In the Finance Committee, we held hearings to consider the President's recommendation. We heard from the administration. We heard from a great variety of private interests both for and against giving most-favored-nation status to China.

On June 27, 1991, the committee ordered two bills reported to the Senate relating to China's most-favored-nation status. It reported unfavorably Senate Joint Resolution 153, which disapproves in total the President's decision. The effect of the disapproval resolution would be to terminate most-favored-nation status for products imported from China beginning 60 days from enactment.

Now at the same time, the committee offered an alternative. The committee sent to the Senate for further consideration S. 1367, and that is the bill we are considering today. It would allow China's most-favored-nation status to continue for another year as long as certain arms sales do not occur. But before extending China's most-favored-nation status next year, the bill would require the President to determine that China has improved its poli-

cies in three main areas—in human rights, trade, and weapons proliferation.

I voted against the first bill, the disapproval resolution, because I do not believe that the immediate revocation of MFN would serve our objectives in China.

What we really ought to be doing is pushing the Chinese leadership just as far as we can push them, and then give them most favored nation; do as much as we can to break down the trade protectionism, protect human rights, and stop the sale of missiles with nuclear capability to countries like Pakistan, Syria, and Iraq.

Until June 1989, extension of China's most-favored-nation status had proceeded routinely. But the events in Tiananmen Square in June of that year brought about a dramatic change in the way the American people think of China. When they think of China now they think of tanks and troops, and they think of guns aimed at Chinese citizens exercising rights which we hold so dear in our own country: The right to speak freely and to assemble peacefully.

Since the events of June 1989, the American people, and we as their representatives, have debated whether we should continue to carry out normal trade ties with a government that we watched so brutally turn on its own people. Can we in good conscience continue business as usual with the Chinese Government?

Today, the repression we witnessed in Tiananmen Square continues, but they are much more careful about it; it continues in a much less visible way. Behind closed doors, those who have challenged the antidemocratic methods of the leadership have been sentenced to long prison terms—longtime activists like Wang Juntao and Chen Ziming. Likewise, religious persecution has been increased over the last few years, with mass arrests and imprisonment taking place of priests, nuns, and the clergy.

Just how many Chinese citizens have been imprisoned for their political activities we really do not know. The Chinese Government certainly will not say. The State Department says it is probably in the thousands. Some estimates have been as high as 30,000.

The legislation that we are considering today says most-favored-nation status continues next year only if the Chinese Government gives us the answer to that question and releases those detained for the peaceful expression of their political beliefs.

As for the freedom to emigrate, that is not an option for those who are in prison. Nor is it a viable option for most students who are now told they either must work for 5 years or repay the state for their education before they can go abroad. Nor is it likely that those working for democracy in

China feel comfortable applying for a passport, since they must get those passports from the police and only after a review of their activities before and after Tiananmen Square.

Then there is another issue we ought to address. I heard my distinguished friend from Indiana referring to the importance of our trade with China. When two countries give each other most-favored-nation status, we anticipate that both countries are going to benefit in their trade relationship. But look at what has happened since we granted China most-favored-nation status. Before 1980, China's annual exports to us amounted to less than \$1 billion a year. By 1990, they exported 15 billion dollars' worth of products to us.

Did our trade see the same kind of growth? Did we enjoy the same kind of benefits? Before MFN we were exporting about \$2 billion in goods to China. Last year we exported less than \$5 billion.

In other words, under MFN we have seen a \$3 billion increase in our exports to China while China has seen over a \$14 billion increase in their exports to us. Not bad for China. But this relationship has added over \$10 billion to our trade deficit.

Right now our deficit with China is our third largest and our fastest growing. Last year China increased their exports to us by 27 percent. Our exports to them were decreased by 17 percent. In no other major market in the world did we have that kind of a decrease. Is that the kind of trade relationship we want, that kind of protectionism against our products?

Over the last 3 years China has expanded central control over foreign trade and it uses those controls to limit imports. The number of corporations authorized to import has been reduced by one-third. I heard the figure cited a moment ago as to how many corporations were authorized to import into China. But the relevant point is that the number of those companies has been reduced by one-third.

The number of products subject to import licensing or import bans has increased. Today we have 53 product categories, accounting for over 45 percent of China's trade, that require import licenses. Import licenses means control by the Government. Imports of 80 types of products are completely banned. Tariffs on more than 100 items have been increased in the past 3 years to rates of 120 to 170 percent and range as high as 200 percent.

How do you compete with that? Does that sound like a most favored nation?

Some of China's barriers are more subtle. For example, it does not publish its trade directives, so exporters do not know what they are up against. And it imposes high quality standards on foreign products, and then requires elaborate testing and certification to see that those standards are met. For ex-

ample, if you want to export automobiles to China you have to provide two free cars as samples to the Chinese Government. Then you have to pay them \$40,000 for their testing. And then you have to foot the bill for the Chinese inspectors to come to this country to inspect the factory.

The Chinese apply none of these rules, of course, to their own automobile manufacturers.

China also steals the markets of American exporters by stealing United States intellectual property. Even the administration admits that China remains one of the world's premier violators of others' intellectual property rights. It provides no patent protection for chemical and pharmaceutical products; none. Its new copyright law provides no protection for U.S. products. United States copyright industries have estimated losses of \$410 million each year from Chinese copyright pirates.

The problem is so bad that the United States Trade Representative designated China a "priority foreign country" under the special 301 provision of the 1988 Trade Act for violating property rights, copyrights.

Today we are really at a critical crossroads with China. We tolerated these kinds of policies much too long. And the sad legacy was a U.S. trade deficit that spiraled out of control in the 1980's. Let us not repeat it with China, with all of its size and all of its work force. I am not willing to see China repeat that kind of performance; closing off its markets until it develops into a major competitor and then opening it up only bit by bit, begrudgingly, in the toughest of negotiations.

But this administration prefers a hands-off policy. It has failed to send a message to the Chinese leadership that there is a price to pay for its policies of repression, of protectionism, of indiscriminate arms sales, and it is time for the Congress to send that message loudly and firmly.

I urge my colleagues to tell the Chinese leadership that MFN is a benefit that they should no longer take for granted.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I want to follow up on the comments of the distinguished chairman of the Senate Finance Committee by discussing the economic dimension of our relationship with China. The fact of the matter is that the Chinese are manipulating the trade relationship to serve their purposes.

I will shortly address the human rights reasons and the missile and nuclear technology proliferation reasons why we should not extend MFN, on which basis I think a very strong case can be made. But whenever one tries to advance those arguments, people say: "Wait a second. This is an economic re-

lationship. MFN has to do with our trade relationship, and we ought to look at it only in that dimension."

I do not agree with that. But let us take that as a working premise, and let us look at the United States-Chinese economic relationship and the most-favored-nation treatment for China solely in that context.

I am going to quote the administration's own words. Under the Omnibus Trade and Competitiveness Act, which the distinguished Senator from Texas was so effective in helping to move through the Congress in 1988, the Secretary of the Treasury is required to submit an annual report to the Congress on international economic policy and exchange rates of countries that are trying to manipulate these factors in order to gain a trade advantage. They are required to update these reports every 6 months.

In its latest report submitted just 2 months ago, in May of this year, the Treasury Department first of all pointed to the extent of the trade imbalance.

As the able Senator from Texas has pointed out, the Chinese trade surplus with the United States has been growing in geometric progression. In fact, their trade surplus with the United States in 1990 was \$10.4 billion. Since their trade balance with the entire world was a positive \$9 billion, the United States more than accounted for China's positive trade balance.

This gap in the trade balance has grown at an incredible rate over the last 3 years. In 1985, China's trade surplus with the United States was zero. It was, in other words, in balance. In 1986, China had a trade surplus with the United States of \$1.7 billion; in 1987, \$2.8 billion; 1988, \$3.5 billion; 1989, \$6.2 billion; and 1990, \$10.4 billion.

So over the last 2 years, from 1988 to 1990, China's trade surplus with the United States has tripled. It has gone from \$3.5 to \$10.4 billion, and if the trends for this year are carried through, it is estimated that the trade surplus will soon reach \$15 billion.

Thus their entire worldwide positive balance comes out of their trade relationship with the United States. To this someone may say that China is competing in international markets and this surplus is just a measure of effective competition. Yet this argument simply will not hold water.

Let me quote from this report from the Treasury to the Congress on International economic and exchange rate policy:

The manner in which foreign exchange is allocated, along with import licenses and other market access barriers, is an important means by which China controls the external trade sector. These pervasive controls are symptomatic of the broader controls which characterize the command structure of the Chinese economy.

An import license is a prerequisite for obtaining a foreign exchange allocation for

nonpriority imports at the official exchange rate. The licenses are, hence, a primary means of controlling imports. However, even if a foreign trade company has obtained an appropriate import license, it may not be able to obtain a foreign currency allocation.

So the Chinese have this very well calculated system of, first, controlling trade through import licenses, and then controlling it through foreign currency allocation.

The report goes on:

For priority imports, foreign exchange at the administered rate is allocated to foreign trade companies under the foreign exchange plans of the central, provincial, and local governments. The allocation decision, while not affecting exchange rates, does provide a second control not only on the value of imports, but also on the supplier of any particular product. This control, to the extent purchasers are directed away from U.S. suppliers to other suppliers, increases the U.S. bilateral trade deficit with China.

The report continues:

On the export side, China uses a number of licensing and other administrative means to influence exports. For example, China gives exporting firms priority access to raw materials, energy, and bank loans. An important element in China's export strategy is efforts to target sales to the U.S. market.

Having discussed the way China controls imports and how they also, in effect, control exports, the report then goes on to make this assessment, and I quote:

It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

Mr. President, how much of this are we going to stand for? There is a gross abuse of trade practices. It has resulted in an exponential increase in our trade deficit with China. This chart shows United States-China trade from 1986 through 1990. The first bar is United States exports to China; the second bar is United States imports from China. As you can see, while our exports to China increased a bit up to 1989, they actually dropped in 1990. In fact, United States exports to China dropped by 17 percent between 1989 and 1990, as a result, I submit, of the administrative control practices that I just cited from the report from the Treasury.

Meanwhile, our imports from China continue to ascend at a very rapid rate. They have gone from \$4.8 billion in 1986, to \$6.3 billion in 1987, to \$8.5 billion in 1988, to \$12 billion in 1989, to \$15.2 billion in 1990; \$15.2 billion is what we imported from China last year. In the same year, \$4.8 billion is what China imported from us, which meant China had a hefty little trade surplus with us of \$10.4 billion. China's balance with the rest of the world was a positive \$9 billion.

So all of their surplus is coming out of their trade with the United States. To quote the Treasury again:

It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

If the trends continue as projected for this year, it is estimated that China's surplus with the United States will jump from \$10.4 to about \$15 billion, and there are some projections that in a year or two from now, it would go above \$20 billion.

This is what is happening in the economic dimension. I want to go on to address the human rights aspect and the arms proliferation issue. But for those who try to discount those considerations and limit the debate to the economic relationship, this is the economic relationship. It reflects a gross abuse of the trade terms. Our Trade Representative has said so. The Treasury Department has said so. It is clear the Chinese are manipulating that trade relationship in order to build up these large surpluses in their trade with the United States. At the end of 1991, it is expected that our second largest trade deficit will be with China, exceeded only by Japan. Of course, with Japan we have been trying to bring the deficit down with some success, not much, but some success. At least the line is trending down. The Chinese trend is upward. It is trending upward because of these administrative controls over external trade.

In its 1991 National Trade Estimate Report on Foreign Trade Barriers, the United States Trade Representative documented China's trade practices and their impact on United States exporters, investors, and our bilateral trade relationship. It singled out China as one of three countries whose trade practices are, and I quote now:

The most onerous and egregious and who are not negotiating in good faith or making progress in negotiations.

Our trade deficit with China jumped 67 percent between 1989 and 1990. In 1990, China's exports to the United States increased 27 percent over 1989.

What about our exports to China? It is reasonable to assume that if there is a growing trade relationship, there will be an expansion on both sides. As I said, China's exports to the United States increased by 27 percent from 1989 to 1990. By what percent do you think United States exports to China went up? In each of the previous years our exports to China had gone up, through not by much. We had an overall deficit with China, but at least our exports to China were going up. But what happened in 1990? Mr. President, I wish I could say that our exports to China increased. The fact is I cannot say that. China's exports to us went up 27 percent. Our exports to China went down—down—by 17 percent. That is the economic relationship. Here we are, de-

bating most-favored-nation trade treatment, and we have this clear-cut abuse by China of the trade relationship, with numerous examples of unfair trade practices.

In fact, the report of the United States Trade Representative provides a detailed account of the areas in which China maintains unfair and restrictive trade practices. They employ a complex system of tariff and nontariff barriers foreign firms' access to their domestic market. Since 1988, China has tightened these controls. I am quoting now from the Trade Representative's report:

Since September 1988 China has tightened administrative trade controls, recentralized trading authority for certain commodities, and increased the number of import bans.

They have been increasing the tariff on most items. They have an import regulatory tax which imposes a separate surcharge over and above applicable tariffs. They require import licenses in 53 product categories, accounting for almost half of China's trade by value in 1989. Industrial ministries in 1990 showed reluctance to allow expanded imports that competed with products from the factories under their jurisdiction. Quantitative restrictions are used to limit foreign companies' access to China's markets.

Then there are the standards, testing, labeling, and certification techniques to which the distinguished chairman made reference. There is the whole effort at export incentives which I previously quoted. It is estimated that over 90 percent of China's exports by value receive this type of support from various levels of the Chinese Government. There is a lack of intellectual property protection, a lack of copyright protection, a lack of patent protection, a lack of trademark protection—on and on and on. Are we simply supposed to take this while the trade deficit continues to escalate? It is going to go from \$10 billion to \$15 billion to \$20 billion, and so on.

Therefore, Mr. President, even when one looks at the economic dimension alone, there is more than an adequate case for passing the conditional MFN extension which the majority leader has introduced. Actually, I think this bill is a very moderate proposal because it extends MFN for 1 year, in effect putting China on notice that it must address the very serious concerns we have with respect to the relationship before we will allow a further continuation of MFN.

Let me turn very quickly to two other areas that are of deep concern to me. One is human rights. There has been virtually no improvement in China's human rights record since the brutal repression of the peaceful human rights demonstrators on Tiananmen Square 2 years ago. Those who participated are still being punished. There are arbitrary arrests, detentions with-

out charge, torture, forced prison labor, and other violations of internationally recognized standards of human rights.

China is the world's most populous country. If the United States is to assert a serious human rights standard, we cannot ignore the behavior of the most populous country in the world. Otherwise, we would be clearly applying a double standard.

I submit to you that in fact there is no other country in the world that could have engaged in the pattern of conduct that we see here with respect to human rights, with respect to unfair trade practices, and with respect to weapons proliferation and still be accorded most-favored-nation status. We would have acted long before we have acted in this situation. We are now in a situation where former Communist countries all around the world are making great strides toward democracy.

Freedom is advancing at, in some places, a breathtaking pace. It is a development we welcome, but one which we have not seen in China. There the repression continues.

Let me turn finally to the weapons proliferation issue. What we are confronted with is the Chinese Government engaging in frequent and large sales of highly sophisticated weapons, including components of and capabilities for nuclear weapons, to very unstable areas of the world. It has been reported that China provided Pakistan with the complete design of a tested nuclear weapon and enough enriched uranium to build two atomic bombs; that China provided South Africa with enriched uranium; that China assisted Iraq in making magnets used for production of nuclear fuel and sold Iraq 30 Silkworm antiship missiles; that China provided Saudi Arabia with intermediate-range ballistic missiles and trained Iranian nuclear technicians. There are further reports that China is planning to sell nuclear-capable M-11 missiles to Pakistan and M-9 missiles to Syria, that they are constructing a nuclear reactor in Algeria, and providing Iraq with the ingredients for chemical and nuclear weapons. And, of course, China continues to provide the murderous Khmer Rouge in Cambodia with diplomatic, economic, and military support.

If China continues its disregard of the concerns which have been expressed with respect to weapons proliferation, we will have the extension of ballistic missiles and nuclear technology into the Middle East which is, of course, a tinderbox. This comes at a time when, following the Persian Gulf war, one hopes that we will be able to introduce some restraint and containment on the transfer of weapons into the Middle East.

It is clearly not in our interest that this continue. How is the United States going to be able to make the argument

to other nations on human rights, on the transfer of weapons, and on a fair international trading regime, if we do not respond to the abuses taking place in each of these areas by the Chinese regime?

Mr. President, I submit that if we are to reflect any clarity and consistency about what we stand for in the international arena, if we are to show that we are serious about freedom, about democracy, about human rights, about nonproliferation of dangerous weapons systems, and about fair play on international trade, we need to pass S. 1367, introduced by the majority leader. This bill actually extends the renewal of MFN treatment for another year, conditioned on meeting the concerns which I have expressed and which others have detailed.

What the legislation that is before us is seeking, in response from the Chinese Government, is eminently reasonable. We ask only a degree of cooperation on internationally recognized human rights, on weapons transfers, and on fair trade practices. Therefore, Mr. President, I strongly urge support for S. 1367.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Missouri.

Mr. DANFORTH. Mr. President, we cannot have it both ways on this vote. We cannot at once issue a broadside against the People's Republic of China and then argue that we are really simply extending most-favored-nation treatment with conditions. That is not the case. We are voting not on conditional MFN. We are voting on MFN itself. There can be no doubt about that.

If we enact the legislation that is now before us, the result would be to terminate most-favored-nation status with China. Maybe that is what we want to do. Maybe that is what Senators would like to vote for. But let us not delude ourselves that there is such a thing as a middle ground, that there is such a thing as conditional most-favored-nation status.

I do not know of anybody who is aware of our foreign policy concerns and dealings with China who really believes that, if we submit to the People's Republic of China certain conditions for most-favored-nation status, they would suddenly say, "OK, we accept those conditions. That is fine with us. We agree. You have got us. You have really got us in a box. We are so anxious to do business with you, we are so anxious to trade with you that we will eat humble pie. We will give in."

As a matter of fact, the same issue was raised to Deputy Secretary of State Eagleburger when he testified before the Finance Committee. He said in his testimony, and I am quoting:

I would urge at the outset that Congress resist the temptation to seek a middle-

ground solution by extending MFN with conditions. We believe such a solution to be illusory and a recipe for failure. Throwing down the gauntlet with a public ultimatum on MFN—indeed, one specific to China—would only make it easier, not harder, for conservative Chinese leaders to claim that national honor and sovereignty precluded any concessions. Our credibility would then require us 6 months or 1 year from now to terminate MFN if China fails to meet each and every condition imposed.

That is the statement of the Deputy Secretary of State. He believes that it is an illusion to feel that there is such a thing as conditional MFN. We are going to be voting on whether to terminate most-favored-nation status with China.

As I understand the basic thrust of the argument that was made by my chairman, the Senator from Texas, Senator BENTSEN, and by Senator SARBANES, the basic thrust of the argument, the main point that was made, was that the trade deficit is just too large. This is too big a trade deficit. We cannot take this anymore.

Mr. President, I thought that argument, namely, conditioning trade policy on the size of the trade deficit, was pretty well put to rest with the Gephardt amendment.

Mr. SARBANES. Will the Senator yield?

Mr. DANFORTH. I will be happy to yield in a minute but I would prefer if I could, to continue with my thought. Then I will be happy to yield to the Senator.

Mr. President, it was very much the vogue a few years ago, for Members of Congress to argue, as Congressman GEPHARDT argued, that the trade deficit is the measure of trade relations between the two countries. When the trade deficit reaches a certain level, that should trigger retaliation. This legislation is the Gephardt amendment. This legislation would say that the trade deficit is just too large, we cannot take it any longer, and therefore we are going to stop trading. We are going to stop doing business with the People's Republic of China.

I wonder if we intend to apply the same rule to other countries with which we have a large trade deficit, beginning, for example, with Japan. We just cannot do business this way. The trade figures are too high. Here are the charts. Here is where imports are going, here is where exports are going. The trade deficit is too large. Let us revoke most-favored-nation status.

We rejected the concept of the Gephardt amendment. I think we should reject the concept of the bill before us.

Then it is argued, well, not only is the trade deficit too large, \$10 billion, \$15 billion, maybe going to \$20 billion, but really the Chinese are not playing by the rules of the game, and because they are not playing by the rules of the game, we are going to stop the game. So that is sort of the second rung of

the argument that is made for this legislation.

And so we hear, well, the Chinese use import licenses. Import licenses, we all know, are terrible; and they are. Therefore, they say, it is a reason to revoke most-favored-nation status. If the existence of important licenses is the basis for revoking most-favored-nation status, then let us revoke most-favored-nation status for Mexico; let us revoke most-favored-nation status for Brazil; let us revoke most-favored-nation status for India, for Thailand, and even for Canada, as a matter of fact, and New Zealand, and the Philippines. One country after another begins to fall, if the use of import licenses is the basis for revoking most-favored-nation status.

And then it is said, well, they steal intellectual property rights—patents, trademarks and copyrights. They take those away from us. Well, we cannot stand that. Let us not enforce the laws that are on the books. Let us stop the laws, stop the trade. Let us pretend that this country of over 1 billion people does not exist, because they steal our patents. They steal our copyrights.

Well, if that is to be the rule, then how about Taiwan? Why do we have rules of international trade? The reason we have rules of international trade, I hope, is to enforce them, not to stop playing altogether.

Mr. President, after making the point, as the advocates of this legislation do, that the trade deficit is too high, and we cannot take it anymore, and let us quit, or that the rules are being abridged and we cannot take that anymore, so let us quit, then immediately the argument gets to issues of foreign policy and issues of human rights.

It is said that we really do not like the Chinese, we do not like what they do to their own people, and we do not like their policies, internal or external. We all know of Tiananmen Square, and we all know they take political prisoners. For those reasons, we have to send them a message, and the way to send them a message is to stop trading with them.

Mr. President, I simply point out that this in turn raises a fundamental issue that has been before us for many, many years. The issue is: what is the relationship between trade policy and the other objectives of national policy?

Traditionally, it has been the Congress that has been the branch of government that has been particularly concerned with the economic interests of the American people. Traditionally, it has been the executive branch that has been particularly interested in the conduct of foreign policy. Congress is granted, by the Constitution, the power and the jurisdiction over international commerce. But, as a practical matter, what Congress does is to delegate that responsibility to the execu-

tive branch. We cannot operate trade policy from the floor of the Senate, so we do delegate a tremendous amount of responsibility to the executive branch.

The tradition has been that it is Congress that attempts to elevate the role of international trade in dealing with other countries. And, historically, in the Senate Finance Committee, what we have attempted to do is put pressure on whatever administration happens to be in power to raise the level of international trade in dealing with other countries.

We have made the argument that too often administrations, whether Democratic administrations or Republican administrations, have relegated economic questions, and international trade in particular, to a second-class status in dealing with other countries. We have argued in the Finance Committee, time and time again, that administrations tend to use international trade as a bargaining chip. We say to administration representatives, as we have said for years—certainly, since I have been around here—“You are pulling your punches; you are not pressing our trade concerns. You are not raising trade concerns, for example, when you have meetings such as last week with the G-7. You are soft peddling international trade.” It is too easy for the administration to give away economic matters because of overall foreign policy concerns.

The basic role of Congress has been to put the squeeze on administrations to make more of the role of international trade. What an irony it is, Mr. President, that in this particular legislation, the tables are completely turned. Here it is that Congress decides that trade comes last, and foreign policy concerns come first. We do not like Tiananmen Square, nobody likes Tiananmen Square; therefore, withdraw most-favored-nation status. We do not like the way the Chinese conduct their internal affairs or their external affairs, therefore, withdraw most-favored-nation status. It is the opposite of the usual role we have played in Congress, which has been the role of trying to elevate the importance of international trade in the dealings with other countries.

I remember back in the early 1980's, when I had the privilege of serving as the chairman of the International Trade Subcommittee in the Finance Committee. Every year I had to chair the hearings on whether or not to extend most-favored-nation status to Hungary, Romania, and the People's Republic of China.

At that time, almost all of the concern was voiced with respect to Romania. Various people would appear before the Finance Committee, and they would tell us what a terrible place Romania is. They would say that, in Romania, they bulldoze churches; and in Romania, they turn Bibles into toilet

paper; and in Romania, they persecute ethnic minorities; and in Romania, they persecute Jews, and on, and on, and on. We were told this is what a terrible place Romania is. Every year, this issue was raised in the Senate, and every year the Senate, after considerable debate, took the position that we could not, as a matter of policy, turn most-favored-nation status on and off because of what is going on within a country. That was the policy we took.

We took the position that Jackson-Vanik meant that emigration was the sole condition for most-favored-nation status, and we should not extend that further.

Now, it is said in this legislation that most-favored-nation status is revoked or most-favored-nation status is extended so as to accomplish all kinds of extraneous results.

Mr. President, that would be a major change in trade policy. It would be a major reduction of trade policy in relationship to other objectives of our country. And before we make that decision, we might ask ourselves, would it work? Would it work?

If the United States of America decides that we are going to turn off over a billion people, if we are going to decide that we are not going to do business with the People's Republic of China because we want to bring them to our position or we want to change their policies, then the question is, Would it work?

Secretary Eagleburger says “no.” He says that there is no chance that it will work. He says that this would have the practical effect of strengthening the hand of the most reactionary parts of the Chinese political system. That is his view. It would not work; it would backfire.

And we would not be joined by our allies. We would not be joined by the rest of the world. We would not be joined by the Europeans or the Japanese with whom we met last week. We would not be joined by the Koreans. We would not be joined by any other country.

We would be attempting to influence the People's Republic of China by turning off international trade while the rest of the world rushed in to fill the vacuum that we have created. This is legislation which is designed to accomplish absolutely nothing, except hurt ourselves; which has no prospect of success; which would turn trade policy in the United States on its head; which would give up the idea of enforcement, for the idea of not playing the game at all. It is truly misguided legislation. It may be the stuff of a good television commercial but it is bad economic policy for the United States and bad political policy as well.

I apologize to the Senator from Maryland, and I would be happy to entertain any thoughts or questions.

Mr. SARBANES. No apology required.

Mr. President, I note that the distinguished Senator from Missouri, a minister and a lawyer, is always prepared to do justice to the arguments made from the other side. But as I listened to his description of the argument that had been made by the chairman of the committee and by myself on the economic question, I must say, I did not think justice was being done to the other side.

We did not start from the premise that the large trade deficit in and of itself was a basis for moving at MFN. In fact, he put the cart before the horse. We started from the premise that the unfair trade practices in which China is so deeply engaged are, in effect, what has led to the large trade imbalance. The figures support that, the descriptions of their practices support that, and the reports from the administration support that.

The United States Trade Representatives, in its 1991 National Trade Estimate Report on Foreign Trade Barriers, singled out China as a country whose trade practices are "the most onerous and egregious and who are not negotiating in good faith or making progress in negotiations."

And the Treasury in its report says:

It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

The Senator also mentioned import licensing. But this is only one item on a long list of unfair trade practices. The Chinese are engaged in every one of these unfair practices; some other countries are engaged in one or another, but the Chinese are engaged in every one of them. The consequence of engaging in those practices is what has led to this rapid escalation in our trade deficit with China, has gone from \$1.7 billion in 1986 to \$10.4 billion in 1990. It has tripled just since 1988.

So it is not the trade deficit alone, it is the whole range of unfair trade practices in which China has been engaged which has resulted in these large trade deficits, and that is the root of the economic problem.

Mr. DANFORTH. Mr. President, if I may respond. The Senator from Maryland insists in arguing from the standpoint of numerical deficits. That is the approach he took in his argument, his principal argument. It is the position that has been taken by the so-called Gephardt amendment. I think that it is bad trade policy.

With respect to the so-called list and the national trade estimates, I invented that list—I mean, the idea of the list.

Mr. SARBANES. All the more reason it should have influence with the Senator.

Mr. DANFORTH. The idea of having national trade estimates was a concept that was developed in the early 1980's, and the idea was to have a systematic way of cataloging unfair trade practices. Why do such a thing? Why catalog unfair trade practices? We catalog unfair trade practices in order to address them; to address them, hopefully, in a systematic way; to address them by enforcing the law; to address them by applying section 301 of the Trade Act. That is the reason for having national trade estimates, a list of unfair trade practices, but not for the purpose of making the argument that we should withdraw most-favored-nation status. That was never intended by Congress when we developed that list.

Mr. BENTSEN. If the Senator will yield for a moment.

The PRESIDING OFFICER. The Chair wishes to state the Senator from Missouri still has the floor.

Mr. DANFORTH. I am happy to yield the floor.

Mr. BENTSEN. I thank the Senator very much.

Mr. President, my distinguished colleague from Missouri also referred to me in his comments and stated I said the problem existed because there was a big deficit in trade. No, not at all. That is not what I said.

What I talked about was the trend, and where it is going. What I talked about was the change in policy and that that policy is more restrictive. What I talked about was that a third of the corporations in the last 3 years that have been allowed to export to China have been barred from sending further exports to China. What I talked about was that our exports to China have been reduced by 17 percent in the last year, when that has not happened in any other market of any size around the world. What I talked about was that China's exports to the United States increased by 7 percent in that period of time. What I talked about was in the last 3 years, they have raised their duties from 120 to 170 percent and that China has raised them as high as 200 percent on some products.

And then my friend from Missouri raised the example of Mexico. What a poor example. With regard to Mexico, we remember the special 301 trade law, a law the Senator helped draft. Mexico, instead of being cited on special 301 intellectual property rights, has now passed within the last week a very tough intellectual property rights law that is tougher than Canada's law. That nation has reduced its duties from 100 percent to a maximum duty of 20 percent, to an average of 9 percent ad valorem. That is where they are going.

My concern is the trend, where it is headed. What kind of a business relationship do you have? If you are headed downhill and they are headed uphill and they are putting roadblocks in

your way, that is what concerns me, not the size of the deficit by itself.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, today we begin debate on the issue of MFN for China. I expect this will be a good and spirited debate. And I hope that, once we have debated and voted, we can put this issue to rest for this year.

When we get to the vote on final passage of the Mitchell resolution, I believe that vote will make clear that neither this resolution, nor anything like it is going to be enacted into law this session. And the Nation's interest will not be served by dragging out this issue—for any other reasons.

As I indicated when the President first announced his decision, it is important for us to see through all the handwringing, and overheated rhetoric—and keep our eye clearly on what the issue really is, and is not.

As the Senator from Missouri just pointed out, the issue is not whether we approve of, or condone, China's policies in areas like human rights, advanced weapons proliferation, and trade. We all share the view that China's policies in all those areas fall far short of what we want, and insist on.

The issue is not whether we do something about our concerns. Virtually ever one of us believes we must keep the heat on Beijing in all of these areas.

The real issue is: How do we best do what clearly needs to be done? Is MFN the best tool? Is it an effective tool?

And this debate really is between those who believe withholding MFN will force the Chinese to shape up in all these areas; and those of us who believe that MFN is not the right tool—because it is a toll that will not work, and will, in fact, probably backfire.

I will be listening hard to the arguments of those who support the pending resolution—listening to hear them explain the process by which terminating MFN will lead to the release of a single political prisoner; will bring greater democracy to China; will cause China to rethink, and reconstruct, its arms sales policies; will cause China to change its unfair trade practices.

I will be listening to hear them explain how much pressure we will really bring to bear on China by withholding MFN—when not a single other nation on Earth will follow suit. We are the only one. We are the Lone Ranger if this happens. On the contrary, it is not hard to imagine the parties that are going to be held around the world—from Australia, to Japan, to Western Europe—when they hear that Uncle Sam is about to impose another restriction on its own exporters, to no useful end.

And a lot of those exports are grain that comes from the Midwest and upper Midwest. We are not talking about being strangers; we are talking about people we know.

I should note in that regard that we will apparently be debating later an amendment that requires the administration to ensure that our GATT partners will impose the same restrictions on trade that we do. I must say, among all the Alice in Wonderland ideas that are floating around these days, that one takes the cake. And I look forward to hearing how the supporters of that amendment intend the administration to ensure something that we all know is absolutely, 100 percent impossible to accomplish. But that is a matter for debate at a later time.

For now, let me return to the main point, which is—let us keep our eye on the ball.

The issue is: Do we just want to feel good? Or do we really want to do some good in these very legitimate areas of concern? And I applaud those who have raised those concerns.

As everyone knows, myself, the distinguished Senator from Montana [Mr. BAUCUS], and a number of other Senators wrote to the President—saying that we do have grave concerns in many areas; insisting that the administration deal urgently with those concerns, and tell us how it intends to do that; but concluding that MFN was just not the right tool to use to address those concerns.

The President has responded to our letter, and our concerns, in a very straightforward, detailed way—and has laid out an action plan that will effectively address the concerns that we have. For those Senators who have not yet read it, I hope they will do so now. The President outlined a real, effective approach. And the contrast between the action approach of the President, and the feel-good approach of the pending resolution, could not be clearer.

Mr. President, the pending resolution will not accomplish what it seeks to accomplish.

Robert Frost once admonished fence-builders to take care about what they were actually fencing in, and what they were fencing out.

Sanctions advocates should also take heed about who will actually suffer the impact of the sanctions they propose.

Enacting the pending resolution—Uncle Sam out there all alone, cutting off MFN while all of our partners continue to go their merry way—that will not seriously hurt the old men in Beijing. If several thousand years of Chinese history is any useful guide, the Beijing leaders would react to its enactment not by crying uncle—but by retreating further into isolationism and repression.

Its enactment would hurt the very people we seek to help. It would hurt the reformers, who—while we smugly celebrate our lofty moral stance—will suffer the repressive backlash we have sparked, and who, in the longer run, will be further isolated from access to our presence.

It would hurt the free market reformers, most heavily concentrated in southern China—which, not coincidentally, is where most of our business presence is centered.

It would hurt the people of Hong Kong—who are counting on us to help preserve their relative freedom and prosperity, as they transition to their new relationship with the People's Republic of China.

It would hurt us—our investors, our exporters, our importers—costing us countless dollars, and jobs, and growth; all without having any positive impact on our broader foreign policy or humanitarian goals.

Mr. President, I just made reference to the several thousand year history of China, and the lessons that history teaches.

The history of the Senate is a bit more modest in duration. And I am afraid our history too often suggests that this body is not always capable of putting aside posturing, and partisanship—and just getting on with the sensible, effective approach.

I hope that we can act on this issue just as we did on the fast track. This is not a partisan issue; it should not be a partisan issue.

But I hope we can act on this issue in a way which will lead future historians to conclude that the Senate can act responsibly, sensibly, and purely in the national interest.

It seems to me the way to do that is to defeat the pending resolution and to get behind the action plan of the President to really deal with our legitimate concerns in China.

If the President does not follow through, I am certain the distinguished Senator from Montana and a number of his colleagues on that side and a number of his colleagues on this side will be asking some very difficult questions of the administration. This was not just a letter to pacify a number of Senators who had grave concerns.

I know the President understands. I talked to the President shortly after he touched down on his return trip from Turkey today. He is very concerned about this legislation. He asked if the letter he sent was satisfactory, and I said I think it was. Maybe not to everyone. There are some who will have different views, some who have partisan views, some who may want more. But the President is determined to follow through. And I just hope that our colleagues, in the final analysis, will defeat the pending resolution and support the President's action plan.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, Benjamin Franklin once said: "No nation is hurt by trade."

Those words are as true today as they were 200 years ago. Nations are indeed helped by trade—it creates jobs, boosts economies, and builds ties between nations.

But the converse of Benjamin Franklin's statement is equally true: Nations are hurt by lack of trade. Lack of trade costs jobs, reduces economic growth, and hinders the free exchange of people and ideas.

In this debate over extending most-favored-nation trade treatment to China we must not repeat the mistake we have done too often, of treating trade as the handmaiden of foreign policy.

And we must not overlook the obvious—by revoking MFN for China we would punish not one, but two nations, for we in the United States would feel a blow as great as the people of China.

Do not get me wrong. There is not one Member of the Senate who does not want to see reform in China. China remains trapped in a web of tyranny and oppression.

Who can forget the stirring image of a single Chinese student holding back a line of Chinese tanks?

Who can forget the horrifying images of the Tiananmen Square massacre?

Unfortunately, China's outrageous behavior has continued.

Some of the democracy protesters arrested in the Tiananmen Square crackdown remain in prison. Some have even been forced to produce goods which are later exported to the United States—in violation of U.S. law.

On the international front, China has moved toward selling very dangerous and destabilizing missiles into unstable regions and ignored international agreements aimed at halting nuclear proliferation.

On top of all this, China has pursued a highly protectionist trade policy.

It has erected new barriers to block U.S. exports, and allowed widespread piracy of U.S. intellectual property.

As a result, United States exports to China have shrunk. China's trade surplus with the United States and all of its major trading partners has ballooned.

All in all, China's recent record is a litany of horrors. China has thumbed its nose at accepted standards of international behavior. Its behavior can no longer be tolerated.

On that point, I am sure every Member of the Senate agrees.

But the real question is how do we best foster change in China? How do we encourage the reforms we seek? How do we avoid a backlash that could plunge China into even deeper oppression?

Do we best achieve our objectives through impassioned, outraged speeches or by working constructively for progress in China?

The legislation we are now considering will demonstrate outrage at China. But in the end it will make the problems we are seeking to address worse, not better. We must strive to engage China in a constructive relationship, not to isolate it from the world.

Withdrawing MFN, or imposing conditions on it that are tantamount to

withdrawal, is simply the wrong approach. And let there be no doubt that the conditions imposed by the bill before us are unlikely to be met.

What would it mean to withdraw MFN status?

MFN is not a special benefit we extend only to our closest friends; rather it is the minimum treatment we extend to virtually all of our trading partners.

In fact, more than 160 nations are now accorded MFN status by the United States. Though we have taken other measures, we grant MFN to Iran, Libya, South Africa, Syria, and even Iraq.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BAUCUS. At a later point. I will yield later.

If MFN status were withdrawn, tariffs on Chinese imports would automatically rise to Smoot-Hawley levels. Chinese products would be hit with tariffs as high as 110 percent.

In practical terms, this would mean a virtual embargo on all products from China. In short, withdrawing MFN is about the most severe unilateral trade sanction that we can take.

In this case, the unilateral sanction would not hurt its intended target—the Marxist hardliners that ordered the Tiananmen massacre. Rather, its impact would be felt by reformers in China, and by American machinists, longshoremen, and farmers.

The chief beneficiaries of MFN in China are the southern Chinese provinces and Hong Kong—the strongholds of the Chinese democracy movement.

In China, there is a history of tension between central and provincial governments dating back at least to the 17th century.

Those tensions persist today. Reform-minded leaders control the industrial heartland of China—Guandong Province.

These leaders welcome ties with the West and—according to reports from human rights groups—allow significantly greater freedom than their counterparts in other provinces.

The central government in Beijing is controlled by hardline Marxists, however. These hardliners have always been suspicious of ties with the West and now complain of U.S. imperialism.

But the reform elements are able to keep ties with the United States because of MFN status. As one group of reformers recently wrote:

Foreign trade and investment, and the demands they put on a centralized command economy, promote (reform) forces, and foster native interests to press for structural reform.

Many of the goods produced in southern China are exported to the United States. In fact, over 1,000 United States businesses have set up shop in China.

With these economic relationships come personal contact with U.S. businessmen and first hand exposure to

Western values. Ideas are traded along with goods.

If MFN were cut off, the tie with southern China would be broken. The reform leaders would be weakened and the hardliners' suspicions of the West would be reaffirmed. Oppression and human rights violations are likely to increase.

This point was made persuasively in an article in this Sunday's New York Times. As David Shambaugh, a China scholar at the University of London, said in that article:

There's no doubt in my mind that revoking MFN would only strengthen the hardline constituency and worsen the human rights situation.

I ask unanimous consent that this article be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. BAUCUS. Mr. President, we must keep in mind, that the darkest periods of Chinese history, such as the Cultural Revolution, came about when China was isolated from the world.

Rather than isolating China from the world by cutting off economic ties, we should seek to engage China—to bring China into the 20th century.

Trade is the link that allows us to engage China. It is the bridge that allows Western values into China.

If we are truly interested in reform in China, if we are truly interested in improving the lives of Chinese citizens—we should seek to expand economic ties, not to cut them off.

Chinese peasants and students would not be the only losers if MFN were cut off. Americans would also lose.

Although United States exports to China are limited by Chinese unfair trade practices, the United States still exported about \$5 billion to China in 1990.

In 1990, China imported \$749 million in United States aircraft and aircraft parts, \$512 million in United States wheat, and \$544 million in United States fertilizer.

China is a particularly important market for United States wheat. In recent years, China has been America's No. 1 wheat export market. A recent CRS study noted that if United States wheat exports to China were stopped, wheat farmers would get 27 cents less per bushel for the wheat they sell.

There can be little doubt that China would discontinue virtually all of these purchases if the United States cut off MFN status and imposed Smoot-Hawley tariffs on Chinese exports.

All of our major exports to China—aircraft, wheat, fertilizer, et cetera—can easily be purchased from other nations. And other nations would be eager to fill the gap.

No other nation is even contemplating cutting off MFN for China. In fact, at the recent G-7 summit, all western

leaders urged the United States not to cut off or condition MFN to China. Rather than sanctioning China, Japan and Great Britain are sending their heads-of-state to Beijing in the coming weeks to reestablish high-level contacts.

In the case of economic sanctions against South Africa and Iraq, the United States sanctions were supported by our allies. But if we cut off trade with China we will be acting alone—completely alone.

And make no mistake about it, United States exporters will feel the brunt of Chinese retaliation for this unilateral step by the United States.

In 1983, China slashed wheat imports from the United States for 2 years in retaliation for United States textile restrictions.

In response to the much greater provocation of withdrawal of MFN, China will simply shift its trade with the United States to Europe, Japan, Canada, and Australia. China will purchase Airbus instead of United States-made aircraft and it will buy its wheat from Australia or Canada rather than from the United States.

The \$5 billion in lost exports will quickly translate into lost jobs. Within a matter of months, 100,000 jobs will be lost. And those are real jobs held by real Americans. Real machinists on Boeing and McDonnell Douglas assembly lines will be thrown out of work. Fertilizer plants would close and lay off their workers. And real wheat farmers in the farm belt will lose their farms and be driven off of the land.

Five billion dollars in trade is an abstract figure, too large for most of us to truly comprehend. But telling 100,000 Americans that we want to put them out of work is something that should put this issue in perspective for all of us.

And, ironically, the lot of the Chinese peasants for whom those jobs are sacrificed will actually deteriorate.

In our enthusiasm to promote human rights abroad, we should give a little more thought to the basic human rights of Americans right here at home to hold a job and support their families.

Some will respond to my argument about United States exports and jobs lost by pointing to the trade deficit with China. They will argue that the United States will actually gain from cutting off trade with China because we import more from China than we export to China.

This is the kind of simplistic economic thinking that led Congress to pass the Smoot-Hawley Tariff Act before the Great Depression.

It is true that China is unfairly limiting United States exports. In fact, because of China's protectionism it now runs a trade surplus with all of its major trading partners, including Japan.

But these trade barriers can and will be dealt with under U.S. trade laws—laws that many of us have crafted to respond to just this type of problem.

As the United States Trade Representative's Office has noted, attempting to address Chinese trade barriers by cutting off MFN is actually likely to make the United States' overall trade imbalance worse, not better.

As noted, all trade with China—both exports and imports—would be reduced to a trickle.

But the goods that we import from China—low-end apparel, footwear, and toys—will not then be made in the United States. These high labor, low-quality products have not been made in the United States for more than a decade. China won the United States market for these products away from Indonesia, Thailand, and Korea—not from United States domestic production.

If these imports are cut off from China, they will simply be imported from somewhere else and add to our overall trade deficit.

On the other hand, U.S. exports are unlikely to find new markets. World markets for United States exports to China—wheat, aircraft, et cetera—are highly competitive. If these products are not sold to China, most are unlikely to be sold at all.

United States trade laws can be used to address our trade concerns with China. But cutting off MFN because we have a trade deficit amounts to cutting off our nose to spite our face.

Many Senators also will argue that the legislation before the Senate does not cut off MFN for China—it merely conditions future MFN for China on changes in Chinese behavior.

But this is clearly a red herring.

The conditions bill that we are considering is tantamount to cutting off MFN.

The bill imposes some 15 conditions on extending MFN to China, ranging from stopping missile sales to releasing all political prisoners to ending support for Communist forces in Cambodia. Some Senators are poised to add still more conditions.

Many Senators have argued that China can meet the conditions that are set.

But that is not the issue.

Even if China could in theory change its behavior, the real question is will China change its behavior in order to retain MFN.

Unfortunately, the answer to the second question is no. China has a history of resisting foreign interference dating back to the construction of the Great Wall.

And no nation will allow the United States to dictate its foreign and domestic policy in return for gaining MFN.

Will China's octogenarian rulers release all political prisoners and—at least in their view—endanger their hold on power to get MFN? Sadly, the answer is "no."

Will China's rulers cave into the United States demand that it end support for its Communist allies in Cambodia? Support for Communist revolution is a fundamental tenet of their ideology. Clearly, they will not let the United States unilaterally dictate such a move.

And the list could easily go on and on.

We will overload the trade relationship with foreign policy baggage. We simply cannot hope to address all of our foreign policy concerns with China in the context of MFN.

In fact, a group of Chinese dissidents and former United States Ambassador to China Leonard Woodcock visited my office recently and argued that the hardliners may use United States conditions on MFN as an excuse to renounce MFN entirely.

In their view, the hardliners view trade with the West as undermining their hold on power and strengthening their domestic opposition. They note that the central government's propaganda machine has been railing against U.S. conditions on MFN for weeks and accusing the United States of imperialism.

In their view, passage of conditions on MFN would provide the long sought pretext for weakening economic ties with the United States.

Many will be quick to dismiss these views as speculation. But before they do so they should take a hard look at the last time we attempted to use MFN to improve respect for human rights in a Communist country.

Congress had long been concerned about abuses of human rights in one of China's closest allies—Romania.

When the Congress was drafting the 1988 Trade Act, both Houses passed a provision that would suspend MFN for Romania for 6 months because of its abuses of human rights.

The authors of these provisions argued that it would scare Romania into respecting the rights of its citizens. But on February 23, 1988, the conferees on the 1988 Trade Act decided that the provision had served its purpose and dropped it from the Trade Act.

But Romania did not meekly attempt to comply with United States demands in order to avoid a future showdown. Instead, on February 26, 1988, Romania itself renounced MFN with the United States.

Apparently, the Romanian regime decided that its grip on power was dearer than MFN. The leadership of China is certain to make the same judgment.

Let us not fool ourselves. If it were to become law, the conditions bill we are considering today would not force China to alter its behavior and would result in a cutoff of MFN.

The lesson of history is clear. From the Soviet grain embargo to the experience with Romania, we see again and again that making trade the

handmaiden of foreign policy will fail to achieve our foreign policy objectives and harm our trade interests.

But if MFN is not the answer, what is?

The hard answer to that question is that there are real limits on our ability to influence events in China. We are unlikely to be happy with China's behavior until the current generation of leaders is replaced.

But in the meantime, we can pursue carefully targeted sanctions against China to address our specific concerns.

I fault the Bush administration for not aggressively and creatively pursuing such measures on their own. But over the last several weeks I have been working with a number of Senators to press the administration to develop a comprehensive package of measures to address our concerns with China.

I am very pleased to say that the President last week transmitted to me a letter detailing this new policy toward China.

A number of measures will be taken. With regard to human rights, the United States will continue to engage China with trade and diplomatic measures.

In addition, three major steps will be taken.

First, the United States has reinvigorated its policy of blocking multilateral loans to China. At the recent London summit, the President personally pressed our G-7 allies to support our policy of denying loans to China until it improves its respect for human rights.

Second, the administration will continue all sanctions imposed on China in the wake of Tiananmen including suspending military and technology projects, blocking all transfers of military and dual-use equipment, and blocking plans to liberalize Cocom controls on exports to China.

Third, the administration launched a major new program to block imports of goods made by prison labor. A major new Customs Service enforcement effort has been launched. The President has announced that unless and until China formally agrees to cease exporting goods made by prison labor, whole classes of products that are suspected of having been made by prison labor will not be allowed into the United States.

This new program will ensure that Chinese political prisoners are not forced to produce goods for export to the United States.

With regard to missile sales and nuclear proliferation, the President has launched a strategy of negotiations backed up with sanctions.

The administration has intensified high-level efforts to convince China to sign and abide by the Nuclear Non-proliferation Treaty and the missile technology control regime. The administration has also begun multilateral

talks with China aimed at ending the flow of destabilizing weapons into the Middle East. Finally, the administration is working bilaterally to prevent the transfer of the M-9 and the M-11 missile.

There are good signs in all of these negotiations.

If these negotiations fail, the President has pledged to use targeted trade sanctions against China. Already the United States has blocked export of satellite components and computer technology that could assist in China's efforts to develop missiles.

The President also pledged to work for multilateral controls on exports of technology to China.

Also let us not fool ourselves on the impact of the legislation we are debating. If the United States cuts off or imposes unattainable conditions on MFN, U.S. leverage will be lost. In that event, we can be virtually certain that China will sell missiles to Syria and Pakistan.

With regard to trade, the President has unveiled an impressive two-pronged strategy to end Chinese piracy of United States intellectual property and to open the Chinese market.

In April, at my urging, the administration initiated a section 301 investigation aimed at ending Chinese piracy of United States intellectual property. This investigation continues. And if it is not concluded successfully within 6 to 9 months of the date it was initiated, the President has pledged to retaliate against imports from China.

To address China's market access barriers, the President agreed to self-initiate section 301 investigations into China's many trade barriers unless China agrees to remove them in the next month.

Remember, section 301 was developed and passed by Congress over administration objections. As the Japanese and the Europeans will unhappily attest, it is a tough and effective tool for opening markets.

If foreign nations do not open this market, section 301 requires the administration to impose trade sanctions on those nations. It has been successful in opening markets in Japan, Korea, Taiwan, and around the world.

I am confident this strategy will address our trade problems with China.

As a more general protest against China's behavior, the administration has announced its support for Taiwan's application to join the GATT.

Though it is clearly in the United States economic interest, China has strongly opposed this move and the administration has acquiesced to Chinese demands. This sharp shift in United States policy sends a strong signal to China.

I know that some of my colleagues are skeptical as to whether the administration will fulfill the many commitments it has made.

But we can keep the administration's feet to the fire. If the commitments are not fulfilled, we can still withdraw MFN next year. Review of MFN status remains an annual process.

As I said, I wish the President had worked with Congress to establish this new China policy years ago. But he has done it now, and it deserves a chance to work.

The howls of displeasure from Beijing demonstrate that the sanctions the President has announced are bitter medicine for the Chinese. But in my view, it is medicine that has a chance of curing the patient's ills, instead of killing him.

For the first time in years, we have a China policy that comprehensively and concretely addresses our concerns with China.

With regard to trade and prison labor, I believe we have now done virtually all that we can do. And I am confident we will get results.

With regard to human rights and missile sales, we have sent China a clear and unmistakable message.

Only time will tell if this new policy will achieve the results we all seek, but it certainly has a better chance of succeeding than cutting off or conditioning MFN.

We should keep in mind that China is the most populous nation in the world. More than 1.2 billion people live in China. That is five times the population of the United States. One in every five persons alive on Earth today lives in China.

Over the next 10 years, it is projected to grow into one of the largest markets in the world.

We must sanction China and try to move it toward reform. Sanctions and other measures like those the President has announced will prod China in the right direction.

But we simply cannot afford—morally or economically—to cut China and its people off from the world. We cannot allow China to drift further away from Western values and we cannot let the Chinese market close to United States exports.

If we hope to encourage reform in China, we must keep trade ties open, not cut ourselves off.

We must pull China into the 20th century, not push it further into oppression. We must engage China, not isolate it.

EXHIBIT 1

[From the New-York Times, July 21, 1991]

DOING BEIJING A 2D FAVOR?

(By Nicholas D. Kristof)

BEIJING, July 20.—As the Senate prepares to vote on whether to suspend trade advantages for China, many experts say the initial beneficiaries of such a cutoff would be the very hardliners that the sanctions are aimed at.

The Senate is expected to vote soon, perhaps Monday, on revoking most-favored-nation trade advantages. The goal of the cutoff

would be to encourage China to free dissidents from its prisons, end the use of torture, and ease the repression that prevails from Tibetan monasteries in the west to universities in eastern cities like Shanghai and Harbin.

The problem for the United States is that a cutoff of most-favored-nation trade status would probably strike hardest—at least at first—at budding capitalists, whose factories might close; pro-Americans, who would have to lie low during the denunciations of Yankee treachery; and moderates in the Government, who would probably lose ground to the hard-liners.

"There's no doubt in my mind that revoking M.F.N. would only strengthen the hard-line constituency and worsen the human rights situation," said David L. Shambaugh, a China scholar from the University of London. "It would fuel the xenophobic impulses of the ideologues who seek to close China's doors."

OUTCOME IS HARD TO PREDICT

To be sure, it is nearly impossible to predict what will happen in China over any length of time, and the gain to the hard-liners might not last long.

In the longer term, the economic distress might even work against them, by bringing an abrupt coup in the Central Committee or a revolution in the streets. The results could be democracy, or something less palatable.

"Cutting off M.F.N. leaves you with two possibilities," a Western diplomat said. "The first is an even more hardline regime still thumbing its nose at the rest of the world. The second is 'Apocalypse Now': they can't keep a lid on things, there's chaos in the streets, and they come up with a new system, whether it's a military dictatorship or something else."

It is difficult to be sure of public opinion in China. But the overwhelming majority of people with whom the topic was discussed in scores of conversations in recent months said they hoped the trade status would be extended.

But they often admitted that they were torn; on the one hand, they would like the United States to punish Prime Minister Li Peng and make the hardliners "lose face"; on the other hand, they do not want to suffer economic hardship.

SOME FAVOR A BLUFF

Many intellectuals say they hope the trade benefits will be extended only after a long struggle. That would put the Beijing Government on notice that it had better improve its image or risk losing most-favored-nation status next year. They say they favor trade sanctions as a bluff, but not their actual use.

An outright cutoff of the current low tariffs is considered unlikely, in part because President Bush is determined to maintain trade links with China. One possibility is that most-favored-nation status will be prolonged conditionally, with future extensions granted only if China makes progress on human rights issues.

Most Chinese do not seem familiar with the idea of conditional renewal of the trade status. When the issue was explained, some said they favored it—if the conditions were ones that China would be likely to meet.

Many Chinese seem more enthusiastic about Western denunciations of human rights abuses than they are about trade sanctions. Many favor measures that would make their own leaders lose face without losing trade.

A "RADIO FREE CHINA"

Another proposal battling around Capitol Hill that fits in with the thinking of many

Chinese intellectuals is a "Radio Free China," modeled on Radio Free Europe. The State Department opposes this idea, however, because it would certainly sour diplomatic relations with Beijing.

Both advocates and opponents of most-favored-nation status argue that their approach is the best one for improving the human rights situation in China. But history suggests that the West, whatever it does, is unlikely to have a major impact on China.

The United States' efforts against China in the 1950's only made the country more radical, and the Soviet Union found at the end of that decade that economic leverage was useless in trying to prod China in the directions it wanted.

The only country that has truly succeeded in molding China for any prolonged period is Mongolia, which in the 13th century took the extreme approach of invading China and establishing its own dynasty.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, let me congratulate my colleague from Montana, Senator BAUCUS, on a truly extraordinary speech that has reviewed the entire situation as well as anybody has to this moment in the debate, and I think as well as anybody else is going to, no matter who else will speak. It was an excellent presentation.

Let me, if I might, try to put this in simple terms. We talk about most favored nation [MFN] and we use all kinds of acronyms in the Congress. Sometimes I wonder if the general public knows what it is we are talking about. We can almost go all day long and never say a complete sentence but simply do it in alphabets.

"Most favored nation" is a trade term that means that we extend to any country the same favorable tariff terms that we will give to any other country. For example, there is a tariff on imported automobiles of 2½ percent. That means any automobile that comes into this country from Mexico, Brazil, Germany, England comes in at 2½ percent, and, if by chance we were to lower the tariff with respect to one country to 2 percent, we would have to extend that 2 percent tariff to all other countries. That is all most favored nation means. It does not matter if it is cars, electric grills, or widgets. They all come in under the lowest tariff or whatever other requirement we put on it.

The United States extends to every country in the world most-favored-nation treatment, except to Communist countries. In 1951 we said Communist countries do not get it. We defined what a Communist country was, and listed them. They did not get it at all, although this was a moot point at the time. There was not much trade between the United States and Communist countries. So no one really cared.

Then in 1974 we passed what is known as the Jackson-Vanik amendment. It

said that Communist countries can get MFN if they will allow free emigration or if extending most-favored-nation status to them would substantially promote free emigration. It was very clearly, at that stage, aimed at the Eastern European countries who would not allow Jewish emigration. You had a pent-up demand of Jewish citizens in the Soviet Union and in the other Eastern bloc countries who wanted out, but these people were not permitted to emigrate.

So it was a carrot. We said all right, you are a Communist country. You do not get most-favored-nation status but if you will let people freely emigrate, then you can get it. And to date that has been the standard that we have adhered to. If a country will let its people out, we will give them most-favored-nation status. Remember, that that is only for Communist countries. All the other countries get it whether they let anybody out or not.

The Senator from Montana mentioned some of the countries that get it. Iraq—now there is a bastion of democracy. Libya, Iran, Syria, all get most-favored-nation status. Syria, a country that leveled the town of Hamah and killed 20,000 men women and children, buried them in the rubble, surrounded the town with tanks, in a religious dispute, and blew them down, gets most-favored-nation status.

So when we talk about human liberties, that is something that is very dear to this country. But in that case, if we are going to apply that standard to China, and that is worthy of debate, then why only China?

I will tell you what I think has happened. We have heard arguments about Chinese trade barriers. China does have trade barriers. Japan has trade barriers. For example, we cannot yet sell any rice in Japan. Only recently have we been able to sell much in the way of beef or forest products; it is a closed country. In Brazil, we still cannot sell any steel of any consequence, and Brazil subsidizes the steel that they export.

The Motion Picture Association came to me the other day. They wanted to make sure we do not extend most-favored-nation status to the Soviet Union because they are pirating films, not paying proper royalties and violating the copyrights on them.

Financial service industries, banks, insurance companies want us to take it away from countries that will not allow our banks and branches to open up in their areas. These are all involved in trade. It is understandable.

We have the hardest time getting our agricultural products into many countries. Every segment of the American agricultural economy that cannot get into a particular country, whatever their business, would most likely want us either not to extend most favored nation to that country if it does not

have it, or if it happens to be a Communist country that does not have it, or take it away from some country that does have it.

China does have it. That is worthy of debate both on trade and on human rights. But if we are going to do it, there is no point in singling out just China. Let us be very serious about why we are singling them out. We are not singling them out because of bad trade policy. They have had bad trade policy as long as they have had most-favored-nation status. They got it in 1980. They have always been an insular country. Only very recently have they started to do much trading at all.

The Senator from Montana is absolutely right. The generation that still controls China is the generation that made the revolution. These were the people that were on the long marches, not their sons and daughters. They regard this as theirs, not the people's country. And all they need is an excuse to turn inward again.

If we were dealing with the leadership in China 5 or 10 years from now, when that generation is dead and gone, then that might be a different situation. But when you were part of the group that trekked from the north on that long march, huddled against the rain, the snow, and were holed up in northern China thinking you would never see your revolution succeed and then it succeeded, it is understandable why you would think this is your country. You are not going to let Westerners take it away.

So everything the Senator from Montana said is true. If we revoke most-favored-nation status for China, it will not cause their leaders to open up China. It will cause them to become again more insular.

In the slightly more prosperous southern provinces of China, which are not the strongholds of the Communists—by and large, those were the provinces that historically were more westernized, had the seaports, and the ones that dealt with the West—the revolution in China did not come out of those provinces. It came out of the rural heartland, not the maritime provinces, and not the trading provinces.

If we revoke most-favored-nation status, all that will happen is that those provinces that want to look at the West and would like to be involved in trade will be frozen shut. And we would succeed in, once more, for another 3, to 7 years, as long as this generation lasts, imposing their iron grip on China.

Let us be serious about why we are denying MFN to China, if we do. It is not that they sell arms. They have been selling arms—and frankly, they are not very good arms—for a variety of years.

France sells arms, and they sold Mirage planes to Iraq. You may recall in

1981, when the Israelis bombed the Baghdad reactor. Israel, of course, was censured at the moment, as they get censured for everything they do, unfortunately and unfairly. They bombed this reactor, which we later learned is not a reactor to generate electricity; it was to make atomic weapons. And it was the French that were building it. They had several hundred technicians there. A number were killed in the bombing raid. We have not withdrawn most-favored-nation from France because they were building in an atomic weapons plant for Iraq.

No, it is not that China sells arms. It is not that China has a backward trade policy. It is Tiananmen Square. The difference between Tiananmen Square—where as best we can tell, 1,000 to 1,500 may have been killed, and others were taken prisoner—and Hamah, where the Syrians literally bombed with their tanks and planes the 20,000 men, women, and children to death—is that we saw Tiananmen Square on television, and we did not see Hamah.

Had we seen Hamah, the reaction against Syria, I think, would have made what we are thinking about doing to China pale.

There is not a single person in this Senate that defends what the Chinese did at Tiananmen Square. Nor do we defend what Guatemala is doing. Every year the State Department puts out the "Country Reports on Human Rights Practices." For 1990:

Guatemalan security forces and civil patrols continue to commit, "with almost total impunity," a majority of the major human rights abuses, including: extrajudicial killing; illegal detention; torture; and disappearance of political opponents.

Sri Lanka: Political killings—carried out the government's security forces and police—remaining a major human rights problem. Additionally, there are thousands of cases of: disappearances; illegal detentions; unfair trials; and torture.

Burma, which will not let any Westerners or press in, is practicing—and it's probably understated—torture, disappearances, arbitrary arrests and detention, unfair trials, compulsory labor, and curtailment of freedom of speech, press, and assembly.

Why do we not take away their most-favored-nation status? Because we have not seen it, as we saw Tiananmen Square.

I think, Mr. President, a fair argument can be made that perhaps we want to revisit the entire issue of most-favored-nation status. Maybe we want to say that, as a matter of American policy, we are going to hold nations to certain standards of fair trials, judicial review, freedom of speech, freedom of the press—basically our Bill of Rights. That may be a fair subject for debate.

But, in that case, let us do it on a broad-base basis. Let us see whether we should apply the same standard to Burma and Sri Lanka and Guatemala

and Iraq and Syria. Syria, who was involved up to its neck in the Pam Am plane attack that blew up over Lockerbie, Scotland, continues to get most-favored-nation status. Why? Because we did not see the bomb planted by the terrorist financed by Syria on television.

No, Mr. President. I understand the fury we feel about China, and I feel it as strongly as anybody else. But the Senator from Montana is right. If we withdraw most-favored-nation status from China, we will not get them to release the political prisoners they still hold, and held before Tiananmen Square. We will not get them to change their trade practices. We will not, until this generation of leaders dies.

If trade sanctions will cause them to change, we have every tool now to do it. We have every arrow in the quiver to do it on the books now. The President has the emergency power to impose embargoes on Chinese goods, if he wants. Even though Iraq gets most-favored-nation status, we have embargoed trade with Iraq. Even though Libya gets it, we have embargoed most of Libyan trade. We can embargo China's trade, if we want. We have domestic laws on unfair competition and on intellectual property, such as trademarks, property rights, and royalties.

We have laws on the books now, actions that can be taken by the Government or by private parties. We can enforce many of those, if we want. Whether it would change China's conduct is another question. But we have the tools to do it, if we wish to try it.

So I hope that we will not withdraw most-favored-nation status for China, so that the result would be as follows: One, those products that are made in China that come to this country will go up substantially in price. Here are a couple of examples: Nike and Avia, who estimate that at least on the production they do in China, the price of the product would go up about 25 percent. How does that benefit anybody? Second, to the extent that China loses markets, it will put peasant workers, who have probably been guilty of nothing, out of work in China. They are not the ones causing the abuses of civil liberties. How does that benefit anybody?

No, Mr. President, one day China will come around. They are not going to come around this year, if we revoke or condition most-favored-nation status. But I ask, at a minimum, if that is the path we are going to start down, that we at least be honest in our reasons, and that we say that, in that case, these standards are going to apply to other countries with equal vigor, who are guilty of the same transgressions.

That will be a change from what we have done on most favored nation in the past. Maybe we want to go that way. But to single out China and to pretend that they are the only country that is guilty of transgressions suffi-

cient to take away their MFN status is a joke, and it is hypocritical.

Mr. CRANSTON addressed the Chair. The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I rise to support, and to urge my colleagues to support, majority leader Senator MITCHELL's legislation to condition the granting of most-favored-nation status to the People's Republic of China.

I know that arguments can be made on both sides of this issue. The Senator from Oregon has just stated one case very eloquently and forcefully.

Others have spoken from a different point of view and I do so. This is an issue of momentous security, foreign policy, and economic consequences.

The Senate did not have the opportunity to vote on this subject last year. Since then, there have been a series of disturbing developments which I believe it is essential that the Senate consider. In order to ensure a vote this year, I introduced a resolution of disapproval after the President announced his decision to renew China's preferential trade status. Now that Senator MITCHELL's bill is being considered, a vote on the resolution of disapproval is no longer necessary so I will not call it up. A vote on the fundamental issue will take place.

Senator MITCHELL's legislation does what President Bush has been unable to do, that is, frame a constructive American policy toward China.

This bill establishes a series of reasonable policy objectives over the short and long term. It establishes a set of sensible standards for Chinese behavior which are just as much in China's interests to meet as they are in America and the world's interest to request.

Over the next 12 months it requires China to meet four simple requests:

First, account for those democracy movement protestors who have been imprisoned;

Second, release those protestors;

Third, cease exporting slave labor products to the United States; and

Fourth, end its military assistance to the Khmer Rouge.

Over the longer term, this legislation requires China to make significant progress toward meeting several other human rights and trade goals, including providing adequate protection for American intellectual property rights and fair access for American exporters to China's markets.

In the short term, this legislation requires China not to supply ballistic missiles or missile launchers to Iran, Syria, and Pakistan.

Since this legislation was first introduced, China has already made progress toward meeting some of these goals. In regard to the Khmer Rouge, last week Beijing hosted an unprecedented meeting of the four Cambodian factions at which agreement was reached on a process that would end

foreign military assistance to all. It is clear that China is backing away from its previous strong support for the Khmer Rouge, demonstrating that China does respond to international pressure.

We must keep that pressure up. We are not giving up leverage, as has been suggested, if we condition most-favored-nation status for China on appropriate Chinese behavior. We would be getting new leverage. China wants our trade, China wants our money. To get it, we must tell them that there is a price.

That is precisely what Senator MITCHELL's legislation aims to accomplish.

We are not bashing China. We are not trying to isolate China.

We are telling China that there is an entry price to be paid for being part of the international community, that entry price is to abide by international norms of behavior.

After World War II, the nations of the world banded together to form the United Nations. In so doing, every nation, including China, agreed to certain basic principles concerning human rights, security, and trade. Gradually, all nations have agreed to expand upon and operationalize those principles in a number of international organizations. One of the key principles concerns the safeguarding of international peace and stability.

China is now undermining international peace. China is now preventing world order. China is helping to make possible a nuclear holocaust.

Reasonable people could argue whether or not this is the deliberate intent of the Chinese leadership. Perhaps they just want to make money by exporting weapons of mass destruction. But the effect of their actions, whether deliberate or not, is clear.

Most-favored-nation status would deny them some money. Then they have to consider their books and if they want trade with us and what that means in terms of economic opportunities for them, they will start changing their behavior. If they prefer to try to make what I believe would be less money, selling deadly weapons to unsavory nations in part, that is a very unwise choice for them to make.

That is what this debate is about. The American people should know it and understand it. They should be awakened to the dark cloud China is now spreading around the world. That dark cloud will hang over California, Montana, Kansas, Texas, Maine, Oregon, just as it now hangs over the Middle East and South Asia.

This issue is bigger, far bigger than most-favored-nation status for China.

China is the fifth largest supplier of arms to the Third World. Throughout the 1980's China secretly provided weapons to South Asia, South Africa, South America, and the Middle East.

This included the transfer of nuclear and chemical technologies adaptable to weapons purposes.

During the last year, Chinese sales of ballistic missiles and their launchers to Syria, Pakistan, and Iran have been reported. China has reportedly arranged sales of M-9 and M-11 missiles to Syria and Pakistan. Both are capable of delivering nuclear warheads distances ranging approximately between 200 and 400 miles. China has also transferred to Saudi Arabia CSS-2 missiles with a 1,500-mile range and with a nuclear payload capacity.

China has systematically and secretly helped nations develop a nuclear capacity in conjunction with its sales of delivery systems.

A few months ago it was revealed that China had been secretly aiding Algeria develop a nuclear facility. According to experts, the reactor is apparently too large to be only for research purposes. The Chinese did not acknowledge their involvement in the reactor's construction until April 30 but according to administration testimony before my East Asian and Pacific Affairs Subcommittee, the project had begun in the mid-1980's.

China has also been active in assisting Iraq develop a nuclear weapons capacity, providing it with lithium hydride, a chemical used in the production of nerve gas, missile fuel, and various nuclear weapons.

The administration says it is concerned about Iraq's nuclear capability but if the administration was really as deadly serious as Secretary Cheney says we are, should we not be equally serious with the country that has reportedly helped Iraq develop a nuclear capability namely, China?

In recent weeks, Chinese officials have made overtures about considering joining either the Nuclear Suppliers Group or signing the Nuclear Non-proliferation Treaty. This is not the first time that China has made such nonproliferation pledges.

In 1984, China's Premier, Zhao Ziyang, promised that China would not engage in nuclear proliferation itself, nor would it "help other countries to develop nuclear weapons." But only a few months after the statement was made, China secretly sold tons of heavy water to India through a West German nuclear materials broker, according to testimony in my Foreign Relations subcommittee.

In the early 1980's China reportedly provided Pakistan with plans for a nuclear bomb. Our concern was so great that last October President Bush suspended military aid to Pakistan because the administration could no longer assure Congress that Pakistan did not have nuclear weapons. In April the President barred the sale of American components to a Chinese satellite because of his concern about China's involvement in the export of weapons of mass destruction.

In December 1989, a Chinese Foreign Ministry official stated that, except for a small number of mid-range missiles sold to Saudi Arabia, "China has never sold, nor is planning to sell missiles to any Middle East country." China's recent arrangements with Syria and Pakistan clearly contradict this pronouncement.

A few years ago, Mr. President, only the United States, the Soviet Union, England, France, and China had nuclear weapons. Now, according to the press several other countries have nuclear weapons. It is clear that some would not have them who now have them without China's help.

Of all the original great powers with nuclear capability, only China has systematically and deliberately exported to other nations that technology and the delivery systems needed. Even the Soviet Union has been more responsible.

The administration says it has engaged China in a dialog on this issue.

For how long and with what results? I would ask the administration:

Has China canceled any contracts because of their dialog?

Has China ceased exporting nuclear technology or missiles and missile technology as a result of their dialog?

Has China stopped cooperating with any nation in these technologies as a result of this dialog?

Has China informed the United Nations or informed the International Atomic Energy Agency about all its projects in these technologies as a result of this dialog? The answer to all of those questions obviously is "no, China has not."

In March Assistant Secretary of State Richard Solomon said that "we have the missile technology control regime and the Chinese have indicated that they will honor those parameters." On June 20 the Chinese denied reports that it had sold medium-range missiles to Pakistan. On June 27, the Chinese confirmed that they were selling M-11 missiles to Pakistan. The M-11, we believe, is in violation of the missile technology control regime.

On July 7, the Associated Press reported that Iran was determined to develop nuclear weapons and was looking to China for help even though Deputy Secretary Eagleburger had assured the Foreign Relations Committee on June 27 that China was not trying to sell nuclear weapons technology and/or nuclear technology to Iran.

The Nuclear Control Institute recently released a partially declassified Defense Intelligence Agency cable dated May 12, 1986, which states that China had completed a feasibility study in 1986 to construct a nuclear powerplant in Iraq by 1990. One of the plant's specification was that it should have the "ability to [be] camouflag[ed] from satellites."

It is not likely that that would have been the case had this been intended for peaceful purposes.

Given what we apparently did not know about Iraq's nuclear capacity, I suggest the administration reassess what assistance China could be providing to other countries in that region.

When the issue was raised about imposing sanctions against Iraq before its invasion of Kuwait, the State Department testified, "You attempt to remain engaged, to argue, to dissuade, to bring moral pressure to bear. Sanctions would not improve our ability to exercise the restraining influence." On June 12, Secretary Baker testified that missile sales are "one of the reasons we say it is important to remain engaged with the Chinese and not cut them off."

Time and time again the administration has expressed its concern about military sales, trade, and human rights to China. Time and again, the Chinese have said one thing while doing another. Mr. President, it is time to use our trump card.

In the final analysis what we are asking from China is no more, nor no less, than the type of responsible behavior in human rights, in security, and in trade to be expected from any nation that is a member of the international community.

We are not asking China to abide by American standards or Western standards, but by international standards. These are standards established not to hurt nations but to help and to protect them.

If China does not want to follow them, it should understand it will become a pariah nation. A vote against most-favored-nation status sends a clear signal to China about the cost of being a pariah. And it is a vote for world peace.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, recently, President Bush decided to extend most-favored-nation status to the People's Republic of China for an additional year. Why was this decision correct? Well, let us step back a minute, Mr. President, and review our objectives. What are we trying to achieve?

We want to urge China to incorporate more of the features of a democracy. That is one of the goals we seek in connection with China. And we want China to move toward the implementation of a market-based economy. We want China to release all its political prisoners. We want them to allow the free exercise of religion and otherwise improve its record on human rights. We want China to stop exporting nuclear technology and other weapons of mass destruction to volatile regions of the world. We want to protect the investment of American companies in China. We want a more balanced trading relationship with that nation. We want China to respect American patents and copyrights.

These are all our objectives. I think everyone agrees on these goals. In short, Mr. President, we want China to join the community of nations, a community that acts responsibly toward its own citizens and toward other nations.

How can we best assure that these objectives are met? Will denying MFN, most-favored-nation, status to China force that nation to change its policies in the near future? With all due respect to the majority leaders and others who disagree, I firmly believe such an approach would actually impede achievement of our objectives.

Mr. President, first let us just look at those words "most favored nation." If there ever was a misnomer, that is it—most favored nation. Frankly, those terms violate the truth-in-labeling law. The United States, as has already been pointed out here on the floor, grants most-favored-nation status to more than 160 countries. And, as has been pointed out already, look at the list of those countries. Are they not really wonderful behaviors? Iran, Iraq, Syria, Yemen and South Africa.

Mr. President, someday, before I leave this place I am going to lead a campaign to change the name of most favored nation to something else. I mean perhaps we should call it the "common, ordinary, every-day treatment" of nations. This would be called the COEDT. That is a little long. I think we ought to call it "normal trading status," NTS.

We are going to have normal trading status with China as we do with 160 others Nations of the world, because that is actually what MFN means. There is nothing more favored. After all, when nearly every nation in the world receives something, it is hard to call it most favored. It is the ordinary every-day treatment that we give all the other countries, practically, in the world.

The only countries that do not have that status now are the certain Communist nations that have failed to comply with one requirement. The only way a nation fails to receive most-favored-nation treatment now is if it fails to comply with the so-called Jackson-Vanik law. What is that? That law requires free emigration practices. Has denial of most-favored-nation status had any effect on those policies in other nations?

Well, just let us look at this. I suppose there is no expert in the world who has dealt more with other nations in this particular problem than Henry Kissinger. In his book, "Years of Upheaval," he questions whether Jackson-Vanik actually had any effect on the Soviet Union's emigration policy. And he concluded that those policies became even more restrictive than they otherwise would have been because of the imposition of Jackson-Vanik.

What is being suggested here today under the so-called Mitchell bill is that we will add whatever conditions anyone can dream up, add them to our trade law. Come one, come all with any objections you have about China and throw them on to this grab-bag bill.

China, it might be noted, complies with Jackson-Vanik. As a matter of fact, their Premier said, "If you want any emigrants, we will send you all you want." But the problem is the other countries will not take them.

I think it is important to look past emotion and examine the practical aspects of this issue. China, as the distinguished Senator from Montana pointed out, is a mammoth nation of 1.3 billion people, nearly one-fifth of the world's population. Twenty percent of the world's population—nearly that amount is in China today. That nation has a long history of isolation. There is nothing new about China sealing itself off from the rest of the world. And the idea that they are going to wince, and come crawling to us if we deny them most-favored-nation status is ridiculous. It is absurd.

First of all, nations do not react that way. When the United States levees some requirement on another nation, they are not going to jump through a hoop in order to ingratiate themselves with our country.

I think we ought to recognize the following. Over the past decade there has been a change even under the aging leadership of the Communist Party. There has been a change toward permitting experimentation with increased economic ties to the West. In other words, gradually, China has shown some indication of coming out of isolationism. We know what China was like from the end of World War II until the Nixon-Kissinger visits in the early seventies. That nation was sealed off by the rest of the world, and it sealed itself off from the rest of the world.

However, there has been this experimentation, as I mentioned, with increased economic ties with the West. A whole new generation of entrepreneurs has been created, particularly in southern China.

How can I say that? What do I know about that? Oh, yes, I have been to China, not only as a private citizen but also in other capacities, in governmental capacities. But I know this because I have talked with those American entrepreneurs who have factories in the southern part of China, so they know a lot more than many of us do. They recognize that those links between those people in south China and the West have become particularly strong.

Progress has been slow but I believe it is those individuals, those business individuals in the southern part of China who ultimately will put the pressure on the central government to lib-

eralize its policies. To withdraw MFN would virtually destroy those business leaders and entrepreneurs. No one argues with that. That is accepted. They will go down the drain because they will not have access to the U.S. markets to sell their goods.

Opponents of MFN for China are persuaded by the claim that rescinding that status will put great pressure on China to improve its human rights policy. I do not agree. Over the past months, through quiet diplomacy, we have been able to secure the release of over 1,000 political prisoners arrested after the Tiananmen Square massacre. This includes several of the most prominent Chinese dissidents.

Obviously we have been disappointed by the continued imprisonment of many others. Everything is not perfect. Nobody is going to make that claim. However, if we break off relations with China by rescinding MFN status the slow progress we have made will grind to a halt.

Is it not curious that few if any responsible groups in the world that have dealt with China believe that denying MFN will cause the Chinese to change their policies? No other country in the world has denied China that nation's version of MFN. So it is strange that a policy is being considered on this floor that is rejected by every other nation. It is rejected by England, and France, and Switzerland, and Sweden, and Denmark—and no one will call those nations soft on human rights—and they all have kept normal trading relations with China.

One of the most troubling policies of the Chinese Government has been the sale of nuclear technology and ballistic missiles to other countries. However, since the United States has expressed its concerns, China has evidenced some change in this. China has pressed Algeria to agree to international inspection of its nuclear facilities. China has publicly stated its support for increased responsibility in the sale of ballistic missiles and other weapons of mass destruction. China has indicated it seriously is considering signing the Nuclear Nonproliferation Treaty. Not every nation in the world has signed that. China has not, but we would like them to.

It is apparent that those sales China has made have not been for political benefit. They have been for cash. Somehow, the idea that by cutting China off from the cash it receives with the sales of goods and services to the United States will somehow make them more amenable to cutting off its sales elsewhere in the world where it seeks cash is absurd.

Another problem with the proposal to remove MFN status is the impact on American businesses which have invested nearly \$5 billion in the southern part of China. People will say, oh, well, we want to rise above that. We are not

concerned with \$5 billion that our firms in the United States have invested in China. That is just too bad. We do not care if we lose those American jobs that depend on the products that are imported from China, and sales that we make to China.

Would removal of MFN encourage China to buy more from us? No one believes that. Would it make China more responsive to demands for the protection of intellectual property if we cut them off? I do not think anybody really believes that.

One of the points that is made on the floor here is that we have a large trade deficit with China, as though that is somehow immoral. Just like we have a large trade deficit with Japan.

The trouble is, we have large trade deficits with many countries in the world. But somehow the idea is that it is particularly immoral to have it with China. It should be pointed out there are a lot of high-technology items that the Chinese would like to buy from us, but we have trade sanctions with China. We will not sell them everything they want and we might as well recognize that.

Our principal hope for improvements in our trading relationship lies in the desire of the Chinese Government to establish a more balanced relationship with the United States. That is one of the—if you can call it that—signs in the wind that indicate things might be better. The Chinese have sent a buying mission over here, and they have signed purchase orders for \$1.2 billion worth of American products. This, in addition to the \$5 billion that China expects to spend here already.

Removing MFN status with the Chinese certainly would make them less cooperative, as far as buying anything from this country, and would cause all those sales to fall by the wayside. The denial of MFN status would hurt the Chinese moderates that we would like to see become more influential.

There is a certain segment of the Chinese leadership that would like to see MFN revoked. They are the hardliners. They have preached right along, do not do business in the West, they will do you in. By revoking MFN, we would prove them right. Any precipitous step on our part would play right into the hands of those hardliners.

We also must remember, most of China's most brutal policies took place at a time when it was most isolated. All of the incidents with the Red Guards, we used to hear about, took place when China was totally insulated, in that period following World War II up to the visit of President Nixon.

So, let us not return to a time when China had nothing at stake and could, and indeed did, act with impunity. I think, it is also worth mentioning China's support of the United States in the United Nations during the time of the Kuwait war.

Mr. KERRY. Will the Senator yield for a question?

Mr. CHAFEE. Could I finish, and then I will be glad to.

Without that support, the liberation of Kuwait might not have taken place. In the future, such support might not be forthcoming, if we were to cut everything off. I think that we have to remember that some have recommended here we ought to send China into a corner as a pariah. Draw up the bridges and say, "Retreat into your isolationism as you have in the past, and as you are perfectly prepared to do." I do not know what that is going to gain us.

I would like to point out one condition in the Mitchell bill that is particularly troubling. This is the subject of ballistic missile sales to the Middle East. The bill calls for an immediate termination of MFN within 15 days of enactment of this bill, unless the President certifies to Congress that China has not transferred certain missile technology to Syria, Iran, and Pakistan.

In other words, the President has to certify a negative, a task that is completely different from the certifications we normally ask of our President. That particular requirement saddles the intelligence community with the untenable job of having to prove a negative, a difficult proposition, indeed.

While proving that a transfer had taken place might be accomplished, how in the world is our intelligence community going to say that a transfer has not taken place? In other words, with sufficient data we can certify that a transfer had taken place. Even with all of our abilities to gather intelligence on the activities of other countries, I do not believe we are going to be able to certify that a transfer has not taken place.

Mr. President, this entire debate points out a very American tradition in world diplomatic relations. Most of us have ancestors who came to this Nation to flee political, religious, and economic repression. We have fought hard for the freedoms we enjoy today. As Americans, we are very proud of the type of society we have built in our country.

Our Bill of Rights symbolizes our dedication to protecting the individual rights of our citizens. We have also developed a foreign policy that seeks to encourage other nations to show the same degree of respect for the rights of its citizens. We believe in that.

But if other countries decline to go as far as we would like, should we ostracize them? Should we essentially break off contact? I believe we should remain engaged. I believe we should not give up. I believe we should continue to push for the best we can hope for and be patient for a better day.

The Chinese Government has many flaws and many of its policies are of-

fensive to Americans. I am not here to claim otherwise. I am convinced we will better serve ourselves, better serve the Chinese people, and better serve American interests by maintaining the present level of relations with that large and great nation.

I urge my colleagues to support the President and unconditionally extend MFN to China for another year.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I had intended to ask a question. I understand we are under time constraints. The chairman of the Foreign Relations Committee has been waiting. I believe he wishes to speak for 5 minutes. I respectfully ask the Chair, if there is no objection, that the chairman of the Foreign Relations speak for minutes, that I follow him, and the Senator from New Mexico follow me.

Mr. DOMENICI. I will make that a unanimous-consent agreement subject to being interrupted if the majority or Republican leader desires.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Mr. President, I want to ask the Senator from Rhode Island before he leaves the floor—I think the Senator has posed the question as though the choice for us is really whether or not we break off contact; in other words, that the bill proposed by Senator MITCHELL is automatically a breakoff of contact or we remain engaged.

What I ask the Senator from Rhode Island is that he seemed to talk as though if we proceed with this bill, that we are somehow cutting them off automatically and then they are insulated from action. I ask the Senator from Rhode Island what specifically he thinks we are getting from China today as a consequence of our current engagement, and whether or not if you simply go along as though nothing was wrong by unconditionally granting MFN, do you not then also insulate the leadership by saying to them they can do whatever they want because we will not hold them accountable? I wonder what we are getting and whether or not unconditional does not insulate them just as much as being cut off?

Mr. CHAFEE. Not at all. I believe not at all. First of all, as I pointed out, over 1,000 dissidents have been released as a result of the quiet diplomacy we have had. There is being built up, as I mentioned, in the southern part of China, a whole new nation of entrepreneurs. The United States has invested some \$5 billion in China overall, most of that in the southern part of China. That is leading, to new Chinese economic reforms, but I cannot say to

the distinguished Senator from Massachusetts everything is going to be fine. On all of these issues we make judgments, based not only on the situation as it exists now, but based on our experience and what we have seen. One thing we know is that there is no difference between denial of MFN, and MFN with a whole series of conditions that we have never levied on any other nation. As I mentioned, the only reason for denial of MFN we have ever had with another nation is for its violation of the Jackson-Vanik amendment.

So here we are embarking on whole new territory and dealing with the export of missiles, and the freedom of dissidents, and on and on the list goes. No proud nation, and certainly China is a proud nation, is going to countenance that. They are going to say, you put us under these conditions, we are not going to observe them. I think we can expect that. I think it is a great mistake proceeding along those lines.

I make one further point that I believe is quite important, and that is this requirement of the majority leader that the President of the United States must certify that there has not been the transfer of missiles to—let me read this particular provision—"must certify that China has not transferred certain missile technology to Syria, Iran, and Pakistan.

We cannot prove a negative. Who in the world is going to be able to get up and say we swear that there have not been these transfers? We cannot do that.

Mr. KERRY. Will the Senator yield?

Mr. CHAFEE. Our intelligence community is not equipped to do that.

Mr. BIDEN. Will the Senator yield?

Mr. CHAFEE. I yield for a question.

Mr. BIDEN. Is the Senator suggesting our national technical means are not capable of determining whether or not M-9, or M-11 missiles, or missile launchers have been transferred to Syria, Iran, or any other country? Is he suggesting that?

Mr. CHAFEE. Sure. I am suggesting that we do not have the capacity for the President to certify the Congress that China has not transferred certain missile technology.

Mr. BIDEN. I can assure you, we do have two technologies, we do have the capacity and he has the capacity now to tell you what they have already transferred to those countries. I am sure the Senator is aware of what has already been transferred in materials of missile launchers. I assume he knows that our intelligence community has already certified to the President of the United States and in turn the President will be delighted to tell you if you ask him that it has already been transferred.

Mr. CHAFEE. The Senator is arguing two separate points. Sometimes we can ascertain that something has occurred and we can say so. That is an entirely

different thing from saying something has not occurred.

Mr. BIDEN. Will the Senator yield for a question?

Mr. CHAFEE. On some occasions, we can ascertain something has occurred. This legislation does not say that. When the President has to make these other certifications—we are used to certifications that come out of, for example, our aid to El Salvador; these are certifications that the Government has not participated in negotiations or the Government fails to support an active role for the United Nations, we can tell these things. But we cannot certify that a transfer has not taken place. I have served just as long in the Intelligence Committee as the distinguished Senator from Delaware has.

Mr. KERRY. Mr. President, I have encroached, through this questioning process, on the Senator from Rhode Island. We had an agreement that he could proceed at this point.

Mr. PELL. Mr. President, is this colloquy at an end?

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

Mr. PELL. I thank the Senator from Massachusetts for his courtesy, and I wish to congratulate the majority leader for bringing this issue up for debate.

Mr. President, I rise in support of majority leader Senator MITCHELL's bill, S. 1367, conditioning extension of nondiscriminatory trading privileges to the People's Republic of China. I congratulate the majority leader for bringing this issue up for debate.

The Foreign Relations Committee has held numerous hearings and briefings on our relations with China. Those sessions have only served to heighten my concern over China's behavior. They have deepened my conviction that it is time for Congress to send China's leaders a strong message: They must match action with words if they desire to be a responsible member of the world community.

For the past 2 years China has only deviated further from the norms of international behavior in human rights, in trade, and in security.

In human rights extrajudicial killings continue; prisoners are tortured; and democracy advocates are detained. Amnesty International reports that the use of the death penalty in 1990 was the highest since 1983 when more than 10,000 people are believed to have been executed.

The administration reports in its list entitled "Achievements of the President's Strategy of Engagement," that their dialog with China has resulted in the release of 1,000 political detainees. They fail to report continued harassment of those released. They are kept under police surveillance; they lose their jobs; they lose their housing; they lose their ration tickets; they lose their medical care, and they continue

to have to report to the Public Security Bureau.

The administration makes no mention of conditions in Tibet where, as the Dalai Lama mentioned in his recent speech before Congress on April 18, that over 1.2 million Tibetans have been killed and 6,000 monasteries destroyed by the Chinese.

Yesterday, the Washington Post reported that the Chinese tried to pull the wool over the eyes of our Ambassador to China, James Lilley, when he visited a Tibetan prison. According to the Post, Lilley said, "we saw right through it. That prison was no Boy Scout camp, and we knew it." What he didn't know was that after he left, two prisoners were badly beaten and placed in solitary confinement for trying to pass a petition to him.

The question is: How has the President's policy toward China made life any better for the Tibetans or the democracy movement protesters?

There is another issue of grave concern to the Foreign Relations Committee which deserves wider consideration by the Senate. That concern is China's widely reported active efforts to export weapons of mass destruction including nuclear bombs and the means to transport them.

The administration claims that the Chinese "are beginning to move in the right direction."

I ask, how quickly?

The administration states approvingly that China has agreed to place the nuclear plant it is constructing for Algeria under International Atomic Energy Agency [IAEA] safeguards. This came only after years of Chinese secret assistance to Algeria was disclosed last April. One presumes that the IAEA safeguards will be better monitored than they were in Iraq.

The administration cites Chinese support for the elimination of Iraqi weapons of mass destruction. Of course, China is reported to have aided Iraq in these secret nuclear programs.

The administration mentions that Chinese President Yang Shangkun has "recently stated unequivocally that China had not sold any intermediate-range missiles." However, on June 27, the Chinese announced they were selling M-11 missiles—capable of delivering an 800-kilogram payload at least 180 miles—to Pakistan. So much for Chinese assurances.

The Dalai Lama said it well last April:

For the sake of the people of China as well as Tibet, a stronger stand is needed towards the government of the People's Republic of China. The policy of "constructive engagement," as a means to encourage moderation, can have no concrete effect unless the democracies of the world clearly stand by their principles. Linking bilateral relations to human rights and democracy is not merely a matter of appeasing one's own conscience. It is a proven, peaceful and effective means to encourage genuine change. If the world truly

hopes to see a reduction of tyranny in China, it must not appease China's leaders.

In considering whether or not to vote for conditioning trade relations with China, I ask my fellow Senators to consider two questions: First, is the world a safer and better place today because of the administration's strategy of engagement with China, and second, do China's past and present actions indicate they want to make the world a safer place?

I thank the Senator from Massachusetts for his courtesy.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the chairman of the Foreign Relations Committee, the Senator from Rhode Island. I would like to say a few words about the bill, and then I guess the Senator from New Mexico is going to speak.

Mr. President, almost every word that I have heard in the course of this debate from those who want an unconditional MFN is essentially true, I think, with the exception of the conclusion that is drawn. There are jobs at stake, and they are absolutely correct in saying that. The trade deficit should not be the motivation for inaction, but I do not think it is.

In addition to that, there are trade sanctions in effect now, yes. But the real issue is one of judgment. I approached this issue with great reservations about setting up an equation that automatically was going to result in a cutoff. Why? Because I think there are great benefits to having MFN. If we can keep it, I would prefer to see us keep MFN. But the question of judgment is really at what price, at what price do you want to keep MFN and the assets that it brings you, and at what point do you have to arrive at a different judgment about what is at stake?

I listened to the Senator from Rhode Island say Switzerland, France, a lot of other countries have relations and they are not doing anything. That is not a reason for us not to do something. When have we known those countries—with all due respect and apology to them, when have we known them on the world stage to be the No. 1 countries asserting a matter of principle and morality that results conceivably in self-inflicted pain?

I do not think that has been the case. And sometimes we have found that the issue of leadership falls to us, as I think it did most recently in the situation with Iraq. So the United States led that effort, and other countries, thank heavens, were there. That is something we have to think about as we approach the question of China.

My colleague from Rhode Island said look at what they have done. Think about the list of what he said they have done. They have released 1,000 dissidents, and we have invested billions

of dollars in their country. And the people in the provinces that are near the ocean have, in fact, gained exposure to Western concepts, Western ideals, and to Western business.

Think about that. That is the list of what the Senator says they have done. One thousand dissidents—I correct him—were released, mostly, according to those who make judgments about these things, because the United States went through the argument we went through on MFN last time. And it was because China saw the possibility of losing MFN that those steps were taken, so that we would not necessarily come back to the point that we find ourselves at right now, making the judgment about how you get some kind of action.

Mr. President, the question we have to ask ourselves is how do you, in fact, stimulate some kind of positive action from China. How do you take a stand that is sufficiently a stand in favor of human rights, in favor of the kinds of changes we need but at the same time sensitive and balanced and respectful of some of the realities of how change might come about in China, of what would institute that change, of how that leadership responds, and of all of the special nuances of a part of the world that, frankly, we are not always very good at understanding.

I believe that what Senator MITCHELL is proposing and what many of us are supporting is, in fact, a compromise, a compromise that I would have hoped both the administration and China could view as not creating an automatic cutoff, not putting us in the position of guaranteeing that the draconian concept that everybody is opposed to is automatically going to happen.

I ask my colleagues who oppose this to think hard about what is in this bill. What is in this bill? There are really only five conditions. Condition No. 1 is that there should be an accounting for those at Tiananmen Square who were arrested on the basis of belief.

Condition No. 2 is that those who were arrested on the basis of belief ought to be released. My colleague says 1,000 of them have been released. I would respectfully submit there is a subjectivity in that accounting process. We do not know for certain if they have absolutely accounted for everybody; if everybody has been released. But those are the first two conditions.

The third condition is that China not be sending and selling goods to the United States that are produced by prison labor, by forced labor.

China has said they will not do that. China has said they are not doing that. So already, three of the five conditions have essentially been either half met or fully met.

Mr. President, I am going to interrupt my own comments at this point. The Senator from New Mexico has an

amendment. Obviously, I want to try to accede to the leadership and keep the process moving. I do not know how this is done. Perhaps we can carry this over until tomorrow if I cannot return this evening to complete it. That cannot be done. Is that correct?

Mr. President, I will pick it up at another time and carry on from where I left off. I yield the floor.

Mr. BENTSEN. Mr. President, I say to the distinguished Senator from Massachusetts, we are very appreciative of that. The Senator from New Mexico is ready for his amendment. We will have time tomorrow for him to continue to discuss this.

Mr. KERRY. That would be fine. I yield to the judgment of the distinguished manager of the bill. I was about to persuade the Senator from Kansas to vote for us. But if he wants to forego that—

Mr. DOLE. I might.

Mr. BINGAMAN addressed the Chair.

Mr. DOLE. Will the Senator yield?

Mr. BINGAMAN. I yield to the distinguished Republican leader.

Mr. DOLE. As I understand, I yield to the distinguished chairman of the committee. Is he prepared to accept the 30-minute time agreement equally divided?

Mr. BENTSEN. Mr. President, in response to the minority leader, yes, we are ready and prepared on this side to accept the 30-minute time limitation.

Mr. DOLE. Is that all right with the author of the amendment?

Mr. BINGAMAN. That is fine with me.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from New Mexico be prepared to offer his amendment with an agreement that there be 30 minutes equally divided, 15 minutes to a side in the usual form, with no second-degree amendments.

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

AMENDMENT NO. 802

(Purpose: To express Congress' findings with respect to the trade practices of the People's Republic of China, to specify additional areas of trade in which the People's Republic of China needs to make significant progress, to require the President to take action with respect to certain trade practices and human rights violations, and for other purposes)

Mr. BINGAMAN. 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 New Mexico [Mr. BINGAMAN] proposes an amendment numbered 802.

Mr. BINGAMAN. 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 4, between lines 23 and 24, insert the following:

(10) The United States has failed to use existing laws and other means to respond to, prevent, or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(11) The Government of the People's Republic of China is engaging in unfair trade practices against the United States which are unreasonable and discriminatory and burden and restrict United States commerce by failing to protect intellectual property rights, raising tariffs, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

On page 5, between lines 11 and 12, insert the following new section:

SEC. 3. PRESIDENTIAL ACTION.

The President is directed to take the following actions with respect to the People's Republic of China's human rights violations, weapons proliferation, and unfair trade practices:

(1) Interact more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

(2) Encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning the People's Republic of China's missile transfers to other countries.

(3) Direct the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States Commerce.

(4) Encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage Human Rights Commission to issue such a report.

(5) Take any other action the President deems advisable to achieve the purposes of this Act.

Redesignate section 3 through 5 as sections 4 through 6, respectively.

On page 7, line 5, strike "and".

On page 7, between lines 5 and 6, insert the following:

(G) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict United States commerce by failing to protect intellectual property rights, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries, and

On page 7, line 6, strike "(G)" and insert "(H)".

Mr. BINGAMAN. I yield myself 10 minutes, Mr. President.

Mr. President, I am concerned, as several other speakers have been tonight and as our majority leader is, with China's policies and the relations of this country to China in recent years. I am also greatly dissatisfied with the United States Government's policies toward China. The essence of my remarks is going to be that the policies of China and our own flawed responses to those policies need to be changed.

The amendment that I am proposing to S. 1367, a bill authored by the distinguished majority leader, is intended to achieve these objectives.

The amendment does several things. First, there are two new findings that we add to the bill. One is finding that addresses China's unfair trade practices, and specifies a number of the more unacceptable ones, such as the failure to protect intellectual property rights and the raising of tariffs, and another is the finding that refers to the failure of the United States Government to use existing laws and other means to respond appropriately and effectively to China's outrageous actions in the area of human rights and armed proliferation and trade.

To carry these out, and also to implement other actions of the bill, I am proposing new provisions which strengthen the conditions related to trade under the most-favored-nation status.

What we could do, Mr. President, essentially is to direct our own President to take actions under existing law to see to it that we make improvements in these areas of concern, primarily trade policy, human rights policy, and proliferation of missiles throughout the world, and sales by China in particular.

Mr. President, there has been an extensive discussion here this afternoon of the particular problems that exist in our relationship, the trade imbalance that exists, the facts that last year we had a trade deficit of \$10.4 million with China—this year it is expected to approach \$15 billion—the terrible human rights abuses both in Tibet and those related to the Tiananmen Square incident, and, of course, the sales and the threatened sales of missiles to various parts of the world.

Mr. President, let me reiterate that I am deeply disturbed about several of China's policies that have a bearing on our relations with that country. I am also greatly dissatisfied with the United States Government's policies toward China. The essence of my remarks is that the egregious policies of China and our own flawed responses to those policies need to be changed. The amendment I am proposing to S. 1367, the bill authored by the distinguished majority leader, Senator MITCHELL, is intended to help achieve these objectives.

The amendment does several things. First, two new findings are added to the bill. One finding addresses China's unfair trade practices and specifies a number of the more unacceptable ones, such as the failure to protect intellectual property rights and the raising of tariffs. Another finding refers to the failures of the United States Government to use existing laws and other means to respond appropriately and effectively to China's outrageous actions in the areas of human rights, arms proliferation, and trade.

To carry out these and other sections in the bill, new provisions are added strengthening conditions relating to trade under which most-favored-nation status will be renewed, directing the President to take certain actions, such as substantially tightening restrictions on technology transfer to China and inducing the Human Rights Commission of the United Nations to issue a report on human rights conditions in China, and mandating that section 301 of the Trade Act be invoked against China. Section 301, not to be confused with what are known as super 301 and special 301, authorizes and in some cases requires the U.S. Trade Representative to retaliate against unfair trade practices of foreign governments.

THE MFN DEBATE

The debate about extending most-favored-nation status to China centers on three problems: First, its brutal violations of human rights; second, its irresponsible proliferation of weapons of mass destruction; and third, its unfair conduct of foreign trade. Most of the debate has concentrated on the first two issues: human rights and proliferation. I agree with much of the criticism directed at China with respect to these issues.

From Tibet to Tiananmen Square and its aftermath, the Chinese Government has followed policies and committed acts that systematically violate fundamental and internationally recognized human rights. In addition, for the past decade, the Chinese Government has been exporting sensitive military technology and weapons to developing countries in the Middle East and elsewhere. Beijing's actions in these areas are objectionable and unconscionable.

The third issue, China's unfair trade, is equally important but has not received the same amount of attention. Nevertheless, the trade issue deserves attention in this.

MFN is a device used in determining whether to have normal trade relations with a foreign country. It is always appropriate to evaluate how a foreign country intends to or actually does conduct its trade with us when deciding whether to grant to renew that status. That is especially so when the foreign country is under Communist rule, or any other system where the free market is not allowed to operate, and

trade is controlled by the government. To my mind, even if China had a stellar record on human rights and was not engaged in proliferation activities, we would have to give serious consideration to withholding MFN because of China's unfair trade policies.

It has been a little over a decade since China opened its doors to the outside world and embarked on ambitious economic reforms. China made significant gains as a result of the reforms and discovered that access to the United States market and Western technology and expertise are essential to its own growth. China apparently also discovered that it is possible to exploit its relationship with us without provoking a strong reaction. The United States Government has been extremely lax in allowing China to use unfair trade tactics against us. If the trade relationship between our two countries is not a one-way street, it is a three-lane highway, with China operating on two high-speed paved lanes and the United States on a single bumpy road.

THE GROWING TRADE DEFICIT

Trade experts have observed China's rising volume of exports and imports and commented on the fact that it presently has trade surpluses with the United States and other major Western trade partners. The underlying causes of China's trade surpluses have, for the most part, escaped scrutiny.

What explains China's trade surpluses? A number of factors are involved and several reflect favorably on Beijing's determination to turn outward and become a part of the global economy. China's trade in 1990 amounted to more than \$115 billion and it has become the 13th largest trading country in the world. To achieve this result, China moved toward a decentralized foreign trade sector and adopted other reforms.

However, the large trade surpluses are a recent phenomena and remain to be explained. Why did China's exports to the United States rise by a whopping 27 percent in 1990, while United States exports to China fell? These and other questions about China's bilateral trade relations have now been answered by authoritative United States Government sources who point to what can only be described as China's unfair trade practices. The United States had a bilateral trade deficit with China last year of \$10.4 billion, according to official United States estimates. It is clear that this large and growing deficit is in great measure a result of Chinese actions intended to produce such a result.

CHINA'S FOREIGN TRADE POLICY

China has adopted an economic policy that combines promotion of exports with restrictions on foreign imports. The fact that Beijing is following an export-led growth strategy is, by itself, not surprising. A number of industrialized and developing countries have adopted such a strategy. We ourselves

have been stressing the importance of exports. But the rules of international trade require that nations who want access to foreign markets give foreigners access to their domestic markets.

It is not uncommon for nations to sometimes stretch the rules and to adopt nontariff trade barriers to protect certain industries. There are numerous disputes among trading partners over such practices. But China is not just engaging in an occasional stretching of the rules. She is breaking them openly, flagrantly, and systematically.

THE CIA REPORT

The fact that China is not playing by the rules of the international trading system is documented in a new CIA report and in testimony given by three Government trade officials to the Joint Economic Committee on June 28, 1991. I will quote the relevant findings in the CIA's unclassified report, entitled "The Chinese Economy in 1990 and 1991: Uncertain Recovery":

The leadership's continued emphasis on export growth without import liberalization risks foreign protectionism. Even without productivity-enhancing domestic reforms, China's export promotion policies could allow it to achieve at least 10-percent average annual growth in exports over the coming decade. Beijing will continue to employ a blend of administrative and market-oriented policies to encourage factories to export.

The CIA report points out that with low wages and as many as 120 million unemployed or underemployed in the agricultural sector alone, China has an immense and still untapped potential as a high-volume producer of labor-intensive products at low prices. The report goes on to state:

The complexity of China's trading system and Beijing's renewed manipulation of import controls may foster increasing resentment from China's trading partners, more and more of which are facing growing trade deficits with Beijing. Last year, China's trade surplus with the European Community soared 121 percent to \$4.9 billion while its trade surplus with Japan nearly doubled to \$5.2 billion.

China's trade surplus with the United States was somewhat higher than the combined surpluses with the European Community and Japan. This underlines the seeping nature of Beijing's policy of promoting exports while restricting imports. China's trade surpluses last year were neither an aberration nor a temporary phenomenon.

I have displayed two charts to illustrate the magnitude of the bilateral deficit and the trends. The first chart shows China's trade with the United States from 1985 through 1990. There are two bars for each year, one for China's exports and one for China's imports. It can be seen that in every year China's exports to the United States were greater than China's imports from the United States, resulting in bilateral surpluses in China's favor. In 1985, the U.S. deficit was \$300 million. It

grew to \$2.5 billion in 1986, \$3.4 billion in 1987, \$4.3 billion in 1988, \$7 billion in 1989, and \$10.4 billion in 1990. In other words, the trade deficit with China has increased for the past 6 years in a row, and this year, 1991, will mark the seventh.

The second chart breaks out China's exports to the United States and China's imports from the United States so that the trends for each can be seen. It will be seen that China's exports have increased by great leaps in each of the past 7 years, from 1984 through 1990. Imports from the United States, on the other hand, have been erratic and at much lower levels. They actually declined in 2 years, in 1986 and again in 1990. And in 1990 they were lower than they were in 1988.

Elsewhere in its report, the CIA shows that China's most recent 5 and 10 year development plans state that Beijing will strengthen oversight of imports in order to curtail them. In a lengthy appendix to its report, the CIA lists numerous actions taken by the Government since 1988 to strengthen central control over foreign trade. Among the actions taken were increases in customs duties, requirements for import licenses, registration and testing procedures for certain imports, imposition of quotas, and the banning of some imports.

The facts strongly suggest that while China restricts imports from other Western countries, the United States has been selected for the most discriminatory actions. In 1989, for example, a secret Government directive specified that future contracts for telephone switches be awarded only to a Japanese, German, or French firm. American firms were effectively banned. In other areas, discriminatory custom rates make it impossible for U.S. firms to win bids.

While China's global imports declined by 10 percent last year, imports from the United States declined by 17 percent, a disproportionately greater amount.

OTHER AGENCIES CONFIRM UNFAIR TRADE PRACTICES

The CIA report demonstrates that China's approach to international trade is one sided and unfair in the most fundamental sense, and the CIA is not the only Government agency to draw this conclusion. In the hearings I conducted on June 28, testimony was presented by spokespersons for the administration from three agencies involved in United States-China trade relations: The Commerce Department, the State Department, and the Office of U.S. Trade Representative. All concluded that Chinese protectionism and other unfair practices have increased in recent years.

Joseph Massey, Assistant United States Trade Representative for China and Japan, observed that in the past decade China has decentralized and lib-

eralized its foreign trade. He then made the following statement:

Since 1988, however, China has skewed its trade policy into a more protectionist mode. As a result, we and many of China's trading partners now have a substantial and growing deficit with them. China's barriers to imports take a variety of forms and cover a broad spectrum. China requires import licenses on a significant number of products and excessive standards and reviews. Import bans and quotas cover products ranging from electronic equipment and machinery to timber and grains.

Mr. Massey cited a series of other objectionable Chinese trade practices including unilaterally hiking tariffs on many items, the use of false country-of-origin documentation to transship textiles and apparel to the United States through third countries, and inadequate protection of intellectual property rights for United States authors, software developers, and inventors.

Richard Johnston, Deputy Assistant Secretary of Commerce for International Economic Policy, summarized the most significant trade barriers faced by exporters to China:

Managed trade and lack of transparency as a result of official unpublished directives that effectively exclude certain companies from the market or restrict their activity;

Import licensing requirements used to deny imports entry when they are of higher quality and lower price than domestic substitutes;

Import substitution policies that exclude products for which the government deems there are acceptable substitutes;

Import bans, quantitative and other market-limiting restrictions, often adopted contrary to market demands;

Standards, testing and certification requirements which have been increased by 30 percent over prior years and place burdens on importers not placed on domestic producers;

Tariffs and other charges of up to 200 percent;

Discriminatory custom rates exempting imports financed by concessionary loans, making it impossible for U.S. firms to win bids based on technology or price;

Absence of competitive bidding in most Government procurement; and

Government guidelines that permit approval of only productive investment.

Mr. Johnston concluded:

These trade barriers and other impediments have had a serious effect on United States exports. Since 1989, leading United States exports to China have declined significantly. Of 13 major product categories in 1990, exports increased in only four. Of the remaining nine, exports were flat in one and declined * * * from 6 to 84 percent in the remaining eight.

The State Department spokesperson, Kent Wiedemann, Director of the Office of China and Mongolia, agreed with the finding in the CIA report that China

has adopted an export-led growth strategy. The State Department believes that China needs to be made to understand that in order to be a member of the global economic community it must adhere to its rules.

WHY THE U.S. NEEDS TO ACT: PRESIDENT BUSH'S LETTER

The facts about China's unfair trade policies and practices and their harmful effects on United States exports and our trade balance cannot be reasonably disputed. What are the prospects and what is the U.S. Government doing to reverse the present trends? What steps were taken in the past and what new and more effective actions are planned?

In the hope that President Bush would himself indicate that the administration had resolved to take firm steps in response to China's unfair trade practices, as well as to her violations of human rights and proliferation activities, I cosigned a letter to George Bush with the Honorable MAX BAUCUS and other distinguished colleagues. The President's response was received last Friday, July 19.

The President's response is in my view, disappointing. Indeed it confirms both the continuing nature of China's objectionable conduct and the lack of forcefulness in the United States response. United States actions, as described by the President himself, consist mainly of discussions, messages, expressions of concern, and negotiations. The United States raised China's human rights practices at the London G-7 summit. We have pressed for adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime. United States agencies have been instructed to press vigorously our concerns about Chinese unfair trading practices.

It stands to reason that under present circumstances, if the United States continues doing business as usual with China, our bilateral trade deficits will continue mounting. China has stacked the deck against us. If we do nothing, we will buy billions of dollars more of goods from China than China will buy from us. It should go without saying that this will not be the result of a lack of competitiveness on the part of American firms, but rather as a result of the unfair trade policies followed by China.

The administration argues that it would be harmful to United States economic and business interests to deny MFN to China, that it would be better to use the trade leverage that exists in the present relationship rather than disrupting it.

I have a different perspective. China has discovered it is possible to exploit its relationship with us without provoking a strong reaction and they plan to exploit it even more. They are promoting exports to Western countries, especially the United States, as a way to earn much needed hard currency,

and they have tightened restrictions on imports in order to build up large surpluses. Their long-term plans call for further measures to promote exports and stiffer controls of imports.

When the administration states "We continue to press the Chinese with all the means at our disposal and the Chinese continue to sit and negotiate with us," that, in my view, is an acknowledgment that the means at the Government's disposal are insufficient to bring about the desired changes, or that the Government's efforts have been ineffective, or both. That being the case, the administration is in a very weak position to oppose placing conditions on renewal of MFN. The amendment I have offered remedies this situation.

Mr. President, I ask unanimous consent that a document which I entitled "Exhibit to CIA Report" be printed in the RECORD.

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

EXHIBIT TO CIA REPORT

APPENDIX C: MEASURES ADOPTED TO STRENGTHEN CENTRAL CONTROL OVER CHINA'S TRADE SECTOR, 1988-91

Over the last few years, Beijing has reasserted central authority over trade. The following chronology outlines some of these controls.

Jan. 1988: Beijing requires import licenses for 53 commodities, according to article in the Chinese press published in May 1990. The list includes steel, lumber, rubber, petroleum, wool, wood pulp, sugar, plywood, civil aircraft, electronics, instruments, automobiles, televisions, camcorders, and processing equipment. The commodities reportedly account for 45 percent of China's total imports. The Ministry of Foreign Economic Relations and Trade (MOFERT) will issue licenses for 16 categories; authorized provincial and municipal branches of MOFERT may issue licenses for the other categories. For purchases not specified in the state import plan, units applying for licenses must obtain consent from the Bank of China to use their foreign exchange. If the desired import is produced domestically, the unit must present documents from the ministry producing the substitute certifying that an import is required.

Jan. 1988: Beijing announces list of 173 products requiring export licenses. MOFERT must issue the licenses for 29 commodities, primarily resources, price-sensitive commodities that have a limited foreign market, or products subject to foreign quotas. MOFERT offices in port cities may issue licenses for 62 commodities, primarily animal products. Provincial and municipal branches of MOFERT issue licenses for 82 commodities.

Feb. 2, 1988: Beijing implements new administrative rules governing the registration and testing of foreign drugs in China.

Apr. 29, 1988: The Ministry of Machine-building and Electronics Industry (MMBEI) approves 100 products developed by the aeronautics industry as import substitutes, in effect banning imports of the products.

Aug. 12, 1988: Beijing raises duties on imports of color televisions and motorcycles to over 300 percent.

Sep. 15, 1988: Beijing doubles the customs duties on imports of consumer appliances—

such as washing machines, radios, and cassette players—to 100 percent.

Sep. 22, 1988: China recentralizes control over silk imports and exports.

Jan. 1, 1989: MOFERT bans exports of copper, nickel, aluminum, platinum, yellow phosphorus, and their alloys. In addition, Beijing adds 16 items to the list of commodities that require export licenses: newsprint paper, bone dust, polystyrene, polypropylene, ABS resin, chromium ore, molybdenum ore, ferrochrome, ferromanganese, magnesium metal, manganese metal, methylbenzene, dimethylbenzene, rubber, salted pine mushrooms, and Chinese medicinal herbs.

Jan. 14, 1989: The China Tobacco Import and Export Corporation requires import licenses for cellulose acetate filter tips used in manufacturing cigarettes.

Jan. 25, 1989: MOFERT sets up a new body, the Import and Export Permit Administration, to tighten control over the granting of import and export licenses.

Feb. 1989: Beijing raises import tariffs on 45 items and reduces rates on two items; also reduces export tariffs on silk and adds four nonferrous metal products to the list of nine export goods that require export tariffs.

Feb. 1, 1989: Beijing centralizes control over pesticides production and sales.

Feb. 1, 1989: MOFERT announces plans to reduce by one-third the number of corporations authorized to import wool in order to curb competition for imports that had bid up purchase prices.

Feb. 10, 1989: Beijing designates China National Ferrous Metals Company sole agent for importing cold-rolled steel, carbon-sintered steels, tin-coated steel, and zinc-coated steel sheets.

Feb. 20, 1989: Beijing announces that the importation of foreign cigarettes and liquor will be banned.

Mar. 16, 1989: Beijing hikes duties on imports of refrigerators and refrigerator components.

Mar. 19, 1989: The State Planning Commission announces an import quota system for timber imports and that purchases are to be reduced 40 percent; quotas are to be allocated to local governments, which can then determine what kind of timber they wish to buy.

Apr. 6, 1989: Li Peng announces that the importation of all luxury cars is banned.

Apr. 6, 1989: Beijing announces that no additional joint ventures producing canned beverages will be authorized, and that import licenses for canned beverages will no longer be granted.

Apr. 24, 1989: Beijing imposes strict controls over the importation of color television components and levies a special consumer tax on domestic TV sales.

Apr. 26, 1989: Beijing strengthens inspection, approval, and management of imports of electromechanical products to encourage the substitution of domestic products.

May 1, 1989: Beijing requires quality licenses for imported products that involve safety, public health, and environmental protection, including automobiles, motorcycles, motorcycle engines, refrigerators, refrigerator compressors, air conditioners, air conditioner compressors, color television sets, and kinescopes.

May 14, 1989: Guangdong Province bans imports of cigarettes, alcohol, cosmetics, canned foods, frozen fish, meat, fruit, candies, biscuits, vegetables, clothing, shoes, scented soap, shampoo, beverages, household electrical appliances, and plastic daily essentials.

June, 1989: Guangdong officials confirm that restrictions exist on the importation of electric power generating equipment.

June 1, 1989: MOFERT creates the Plywood Import Coordination Group consisting of nine corporations with the exclusive right to import plywood. Only three among the nine can participate in price negotiations.

June 6, 1989: Beijing announces exports of copper, zinc, lead, manganese, iron, and nickel must be reported to the China non-ferrous Metals Import and Export Corporation for examination and approval.

June 10, 1989: Beijing requires export licenses for six metal ores: copper, zinc, lead, manganese, iron, and nickel, with approval granted by one of two central bodies.

June 27, 1989: MOFERT empowers the Plywood Import Coordination Group to negotiate and sign all contracts for the importation of plywood.

July 4, 1989: Beijing requires import licenses for purchases of refrigerators, air conditioners, and video recorders.

July 13, 1989: MOFERT extends central management to 13 kinds of imports ("Category 1 goods") to control competition among importers. Products that may be imported only by state-owned specialized foreign trade corporations include grains, sugar, steel, fertilizers, crude and refined oil, rubber, timber, polyester fibers, tobacco, cotton, pesticides, and farm use plastic sheeting. Beijing announces the formation of "import coordination groups" to unify negotiations with foreign suppliers over import prices for other controlled products ("Category 2 goods.") The products in this category include: wool, wood pulp, plywood, craft paper, corrugated paper, cigarette filters, chemical materials, scrap ships, and TV tubes.

July 22, 1989: Beijing further recentralizes imports of canned drinks, imposing 40-percent tariffs on imports of materials used in the production of pop-top cans. In addition, government institutions, mass organizations, and enterprises are prohibited from using public funds to purchase canned drinks.

July 24, 1989: Beijing requires import licenses for 22 medicinal products and export licenses for seven traditional Chinese medicinal products.

July 25, 1989: MOFERT revokes the import rights of seven wool importers, requiring representatives from the companies to form an import coordination group to conduct unified negotiations.

Aug. 1, 1989: MMBEI bans the importation of 20 electronic and machinery products, including computer hardware, TV sets, tape recorders, video equipment, VCR units, and integrated circuits. The ministry also restricts imports of assembly lines for televisions, tape recorders, fiber-optic and microwave communications equipment, printed-circuit boards, and other electromechanical products.

Aug. 4, 1989: Beijing adds 106 goods in 44 different categories to the list of items subject to inspection.

Aug. 11, 1989: Beijing raises import duties on six items: coffee, syrup, vacuum cleaners, electronic games, cosmetics, and soap, and levies export duty rates of 50 percent against lead and zinc exports.

Aug. 22, 1989: Beijing requires export licenses for computers and peripheral equipment.

Aug. 22, 1989: The State Council reportedly issues a secret directive that future contracts for telephone switches be reserved exclusively for Siemens (Germany), Alcatel

(France), and NEC (Japan), in effect banning US companies. Information about the directive is leaked to a US telecommunications firm and subsequently published by a Western business journal in late 1990.

Aug. 28, 1989: Beijing imposes new standards for the inspection of guidelines for TV imports.

Sept. 1, 1989: Beijing increases tariff levels for various imports; medical instruments, scientific research apparatus, medicines, drugs, and perfumes are subject to 20-percent tariffs; household appliances (excluding VCRs), cameras, watches, bicycles, textile products, and cosmetics 100 percent; VCRs and motorcycles 150 percent; cigarettes, liquor, and limousines, 200 percent.

Sept. 21, 1989: Beijing limits the right to export canned mushrooms to 18 approved entities.

Oct. 1989: China Animal and Plant Quarantine Headquarters imposes strict controls on imports of all tobacco leaf as a result of the detection of live tobacco blue mold on a shipment of Greek oriental tobacco. The regulation is not publicized.

Oct. 23, 1989: Beijing publishes a list of 148 varieties of import commodities subject to inspection under a new commodity inspection law to be implemented on 1 May 1990.

Oct. 26, 1989: Guangdong Province establishes minimum export prices for 29 goods, including lithopone, yuanning powder, potassium permanganate, cassia, cassia oil, paper products, cattle hides, feather and down, rattan products, black wood furniture, red bricks, sea sand, fresh water sand, canned fish, soy sauce, lychee, mandarin oranges, shelled peanuts, sesame, dried rice vermicelli, blanched peanuts, electric fans, fluorescent lamp stands, glazed wall tiles, pocket knives, padlocks, plastic products, mosaic, and precious ink stone.

Nov. 4, 1989: The State Administration of Technology Supervision requires three levels of approval for imports of measuring devices; design approval, import approval, and inspection.

Nov. 28, 1989: Beijing centralizes exports of tungsten, giving sole trading rights to three corporations.

Dec. 1, 1989: Beijing raises import tariffs on film for medical and scientific uses on and certain printed circuits, eliminates export duty on prawns, and introduces an export tax of 50 percent on tin and tin concentrate.

Jan. 15, 1990: Beijing raises tariffs on consumer goods such as coffee, sweetener, cosmetics, soap, electronic games, and small vacuum cleaners.

Jan. 17, 1990: The Ministry of Agriculture stipulates that all organic and inorganic fertilizers, soil conditioners, and plant growth-regulating agents must be inspected and registered prior to importation.

Jan. 25, 1990: Beijing reduces import tariffs on cattle hides and raw materials for tire production, and eliminates a 50-percent import regulatory tax on television picture tubes.

Feb. 13, 1990: The State Planning Commission approves new import restrictions on building materials such as marble, granite plates, certain types of glass, plastic carpeting, plastics, glass fiber, flax or cotton wallpaper, wall or floor bricks, plaster stone plates, and aluminum alloy doors and windows.

Feb. 22, 1990: The State Council promulgates regulations requiring MOFERT to submit applications for import and export of 20 types of materials to the Ministry of Materials.

Feb. 24, 1990: Beijing recentralizes exports of paraffin wax.

Feb. 26, 1990: Beijing bans exports of yellow phosphorous and polyvinyl chloride.

Apr. 1990: Beijing bans the importation of small-scale electric power-generating equipment.

May 1990: Beijing requires quality licenses from the State Administration of Import and Export Commodity Inspection for nine additional imported commodities: automobiles, motorcycles and their engines, refrigerators and air conditioners and their compressors, television sets, and kinescopes.

May 1, 1990: Beijing increases the number of products subject to export licensing from 173 to 185. Additional products include canned broad beans and asparagus, walnuts, sorghum, rabbit meat, cotton liners, silicon-manganese alloys, and certain pharmaceuticals.

June 1, 1990: Beijing raises the range of import tariffs on certain film-developing chemicals from 25 to 35 percent to 80 to 100 percent and reduces the export tax on certain ferroalloys from 50 to 20 percent.

Aug. 1990: The Ministry of Chemical Industry announces it will limit the amount of fertilizer imported and require an import license for each purchase.

Sept. 1, 1990: Beijing raises duties on 11 items, including chemicals, pesticides, and pharmaceuticals. These increases followed lobbying by Chinese manufacturers who faced growing inventories of chemicals because sales to the domestic market dropped as a result of the economic slowdown. Tariffs on metal containers for compressed or liquified gas were raised from 12 to 17 percent to 50 to 70 percent, and those on ultrasonic equipment were raised from 12 to 17 percent to 25 to 35 percent. The tariffs on certain optical lenses were reduced from 30 to 40 percent to 12 to 17 percent.

Oct. 19, 1990: Beijing increases tariffs on seven chemicals, pesticides, and medical instruments.

Nov. 20, 1991: The Customs Tariff Commission of the State Council raises duties on seven imported commodities, including soybean oil, sesame oil, rapeseed oil, palm oil, palm kernel oil, and coconut oil. The change is undertaken to raise prices on imported goods, which were lower than domestic vegetable oil prices.

Jan. 10, 1991: The Customs Tariff Commission announces increased import tariffs on nine commodities to promote industrial production. The products include air conditioners, walkie-talkies, pagers, and sorbitol. Tariffs are simultaneously lowered on 40 imported commodities, including chemical fertilizers and some raw materials related to agricultural and industrial production.

Mr. BINGAMAN. Mr. President, I would like to call the Senate's attention in particular to some provisions and some conclusions that were contained in a CIA report. I know the majority leader referred to that. I chair a subcommittee of the Joint Economic Committee which deals with many of these same issues, and that subcommittee has received from the CIA each year for the last several years a report on the Chinese economy. This year we received such a report, and I commend it to my colleagues for their reading. It is called "The Chinese Economy in 1990 and 1991: Uncertain Recovery."

I will not try to read the various effective provisions of this report, but I think it makes it very clear that the

problem we have with China today is the result of very conscious actions by the Government of China to restrict imports and to promote exports, particularly to the United States. And the most telling part of that report, at least to my mind, was one of the appendices. It is appendix C called "Measures Adopted to Strengthen Central Control Over China's Trade Sector 1988 through 1991."

Mr. President, let me just go through this exhibit for a moment here and highlight some parts of it for the edification of Senators who are interested in this issue. It is a six-page exhibit and it is a very detailed exhibit in chronological order beginning in January 1988 and ending in January 1991, listing specific things that the Government of China has done to restrict imports, primarily some to promote exports but primarily to restrict imports.

The range of actions that have been taken and the number of actions that have been taken by the Government of China during this last 3 years to accomplish this objective is really startling to me. I would just call this to the attention of my colleagues. For example, January 1988, Beijing announces a list of 173 products requiring export licenses. A few months later, August 1988, Beijing raises duties on imports of color television sets and motorcycles over 300 percent. In April 1988, the Ministry of Machine Building and Electronics approves 100 products developed by the aeronautics industry as import substitutes, in effect banning imports of the products. September 1988, Beijing doubles the customs duty on imports of consumer appliances to 100 percent.

Mr. President, you can go on into 1989. Beijing hikes duties on imports of refrigerators and refrigerator components. Beijing announces the importation of liquor and cigarettes will be banned. Beijing centralizes control of pesticide production and sale.

Going into the next year, Beijing requires import licenses for purchases of refrigerators, air-conditioners and video recorders.

Mr. President, I think any of my colleagues will have to conclude, if they look at the exhibit that accompanies this CIA report, that there has been a concerted and very persistent effort by the Government in Beijing, the Government of China, to keep United States firms, foreign firms in general, but United States firms in particular from being able to sell their products within China.

The large trade deficit we have with China today is not a result of free trade practices. It is clearly a result of China's decision to develop a large surplus with the United States to exploit its position and its access to the United States market to the disadvantage of this country, to the disadvantage of

our own producers and to the advantage of China itself.

Mr. President, that is an unacceptable situation. I share the concerns of the majority leader with regard to human rights abuses. I share his concern with regard to proliferation of missiles, and I also want to underline my particular concern with regard to the trade difficulties.

The amendment that I am offering tries to shift some of the focus of this debate and says, certainly, we have things we want China to do in the next year, but we also have things we want this Government to do—our own Government. It directs that the President take several actions and that he interacts more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

So, to my mind, it is an important action that needs to be taken. If in fact that technology is being exported to the rest of the world on missiles, which we are trying to control through the missile technology control regime, we need to deal with that.

It directs the President to work with the Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China.

It directs the President to encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage the Human Rights Commission to issue such report.

And it directs the President to take any other action the President deems advisable to achieve the purposes of this act.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. At this point, I yield the floor to the manager of the amendment to make any comments he would like.

Mr. BENTSEN. Mr. President, I ask the distinguished Senator, who is offering the amendment, to yield 1 minute to me.

Mr. BINGAMAN. I will be glad to yield a minute.

Mr. BENTSEN. I congratulate the Senator for strengthening the trade portions of this bill. His amendment directs the USTR to use section 301 to do away with China's restrictive trade practices; and, even better, points out in significant detail what progress must be made, and how we can measure it, when the President makes that determination next year whether to continue China's MFN status. So I am pleased to support the Senator's amendment.

Mr. BINGAMAN. Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, I thank the Chair. I am going to oppose this amendment. I think it simply worsens the Mitchell bill that we already have before us. It adds more conditions.

If we are going to single out countries, do not do it one at a time. Take all of the ones that are guilty of illegal trade practices, and guilty of human rights violations and withhold most-favored-nation status, and say that, henceforth, this is going to be our standard. But I encourage the rejection of this amendment.

Mr. BINGAMAN. If the Senator is willing to yield back his time, I am.

Mr. PACKWOOD. I yield my time.

Mr. BINGAMAN. I yield the remainder of my time, Mr. President.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Georgia [Mr. FOWLER], are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Delaware [Mr. ROTH], are necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—55

Adams	Ford	Mitchell
Akaka	Glenn	Moynihan
Baucus	Gore	Nunn
Bentsen	Graham	Pell
Biden	Harkin	Reid
Bingaman	Helms	Riegle
Boren	Hollings	Robb
Breaux	Inouye	Rockefeller
Bryan	Kennedy	Sanford
Bumpers	Kerry	Sarbanes
Burdick	Kerry	Sasser
Byrd	Kohl	Shelby
Conrad	Lautenberg	Simon
Cranston	Leahy	Smith
D'Amato	Levin	Wellstone
DeConcini	Lieberman	Wirth
Dixon	Mack	Wofford
Dodd	Metzenbaum	
Exon	Mikulski	

NAYS—35

Bond	Chafee	Cohen
Brown	Coats	Craig
Burns	Cochran	Danforth

Dole	Kassebaum	Seymour
Domenici	Kasten	Simpson
Gorton	Lott	Specter
Gramm	Lugar	Stevens
Grassley	McCain	Symms
Hatch	McConnell	Thurmond
Hatfield	Nickles	Wallop
Heflin	Packwood	Warner
Johnston	Rudman	

NOT VOTING—10

Bradley	Garn	Pryor
Daschle	Jeffords	Roth
Durenberger	Murkowski	
Fowler	Pressler	

So the amendment (No. 802) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MACK. Mr. President, this is a difficult issue for me, because I fully understand and even sympathize with those who passionately argue that the renewal of most-favored-nation status for China is in this Nation's interest. I understand that many consider revoking MFN a futile unilateral act. I understand that we have a significant level of trade with China and that some American jobs are at stake. I understand the argument that free trade is a liberalizing force in China that eats away at the regime's iron grip on the people.

I understand all these arguments, but I keep coming back to the question of freedom and human rights. I think about the image of the lone student standing in front of a line of tanks 2 years ago just before the Tiananmen Square massacre. I think about the Statue of Liberty erected by the students in Tiananmen Square, and how the statue and some of the students on it were crushed by tanks. I think about the people still in prison today for daring to speak out for democracy and human rights. And I think to myself, what can we do that will best keep faith with those brave souls and the dream of democracy for the 1 billion people they represent.

The conclusion I come to is that the best way we can stand for freedom and human rights in China is to revoke MFN immediately, and keep it revoked until the human rights situation has improved.

Some have argued that we should not revoke MFN because we would lose leverage with the government of China. The implication of this argument is that since MFN was granted to China in 1980 by President Carter we have had significant influence on China. I disagree. Yes, China has voted with us in the U.N. Security Council at times, and yes, the cultural revolution is behind us, but the human rights situation in China is still abysmal and getting worse.

There has been no improvement in human rights and freedom in China

since the Tiananmen Square massacre. As the Independent Federation of Chinese Students and Scholars wrote in a letter to me,

International human rights organizations and the U.S. State Department have documented a worsening human rights situation in the past year. Thousands have been imprisoned, executions have dramatically increased, and many democracy activists were harshly sentenced in secret trials.

The Chinese students have, I believe, a realistic attitude toward the Chinese Government. They believe that there is an internal struggle going on between hardliners and reformers, and that the way for the United States to help the reformers is to provide a clear financial incentive for reform. Again, to quote from their letter,

We are convinced that the United States Government is in the unique position to strongly encourage concrete actions to achieve greater freedom in China.

I do not believe that the Chinese Government is immune to pressure for reform. And if they are, I do not believe that we can in good conscience continue to do business-as-usual with them.

While outright revocation of MFN is not an option that we are voting on today, it is the option I support. Absent that option, I will support conditional renewal of MFN, and the amendments offered to strengthen those conditions.

Mr. KENNEDY. Mr. President, I strongly support this bill to condition the renewal of China's most-favored-nation trading status for the People's Republic of China.

The events of the past 2 years have proven time and again that the Bush administration's policy toward the Chinese dictatorship is a failed policy.

Since 1989, Chinese authorities have stepped up persecution of human rights activists, executed hundreds of prodemocracy advocates, jailed thousands of individuals for expressing their political beliefs, increased restrictions on emigration and foreign travel, ignored previous assurances regarding missile sales, and increased barriers to free trade.

Unconditional renewal of China's MFN status would send a clear message to Beijing hardliners that for the sake of trade with China the United States Government is willing to ignore such brutal practices and flagrant violations of human rights.

In light of Beijing's continued disregard for human rights and unfair trading practices, imposing conditions on the extension of China's MFN status has become the only credible approach by which the United States can hope to change Chinese policies.

Congress must clearly indicate to the Chinese authorities that there is a price to pay for their continuing human rights abuses. If America is to retain its role as the leader of the free

world, it must support these long-suffering people in their struggle to embrace the very ideals upon which our own country is founded.

President Bush claims that conditioning MFN will strengthen hardliners within the Chinese regime who want MFN withdrawn so they can once again close China's door to the outside world. But China's leadership doesn't want to close the door.

The economic reforms of the 1980's opened China's economy and it has become dependent upon foreign trade, technology, and capital. China is profiting from its trade with the outside world and Chinese leaders want the economic benefits the West has to offer.

But these benefits should not come at the cost of ignoring violations of internationally recognized fundamental human rights. Conditioning China's MFN status will reinforce the ability of moderates within the Government to argue that brutal repression must end.

Today, advocates of democracy in China are even less likely to receive a fair trial than they were in 1989. Political authorities have increased their interference with the judicial process. During the past 2 years, Chinese officials have stressed that courts must follow the Communist Party line. Judges have been encouraged to handle cases rapidly and to hand down death sentences without pity.

Prodemocracy leaders out of the public eye have been singled out for harsh treatment. It is not uncommon for such individuals to be jailed for 10 or 20 years, sometimes simply for making dissident speeches.

In Tibet, tens of thousands of Chinese troops and police enforced de facto martial law to prevent demonstrations during recent celebrations marking the 40th anniversary of the Chinese invasion. Roadblocks of armed guards were stationed around Lhasa, a 2-month curfew was instituted, foreign journalists were barred, and tourists were warned not to speak to Tibetans and were prevented from leaving their hotels without guides.

Since 1989, hundreds of Tibetans have been killed by Chinese authorities during protests, and many thousands more, including monks and nuns, have been arrested and tortured.

Arrests of religious leaders also increased in 1990. Sixty Chinese Catholic leaders, including 20 bishops, are currently detained. Last year, more than 30 Catholic bishops, priests, and lay leaders were arrested. Just last month, the acting bishop of Shanghai was arrested and taken into detention.

In addition, since June, 1989, more than 400 Protestant clergy and lay leaders have been arrested and 300 churches have been closed.

In 1986, the administration argued that the best way to influence the apartheid regime in Pretoria was to

avoid sanctions and to continue trading with that country.

That argument was rejected by Congress. And the sanctions we imposed were a significant factor in bringing about positive changes by that country's repressive regime.

One of the most effective ways to change the human rights policy of a repressive regime is by using economic pressure. Refusal by the administration to link MFN with human rights ignores the progress achieved in the past through such linkage.

Similarly, there is a widespread bipartisan consensus that the economic pressure brought to bear by the Jackson-Vanik trade amendment has played a key role in advancing the cause of human rights in the Soviet Union.

Pursuant to Jackson-Vanik, prior to renewing a Communist country's MFN status, the President must make a determination that its emigration practices are becoming less restrictive. During the past 2 years China has increased emigration restrictions to punish those who have expressed their political beliefs.

Yet President Bush refuses to apply Jackson-Vanik to China. He insists that China is likely to behave in a fundamentally different manner from the Soviet Union if economic conditions are applied—despite the fact that the Beijing regime is considerably weaker than Moscow was in the 1970's.

The administration claims that Beijing will not respond to "external pressure." Yet the Chinese Government has great reason to respond since China is heavily dependent upon the United States export market.

In 1990, the United States trade deficit with China was \$10.4 billion. It is expected to grow to \$15 billion by the end of this year and is already up 17 percent from this time last year.

To recoup foreign exchange losses in the aftermath of the Tiananmen Square massacre, the Chinese Government has dramatically increased exports while limiting, and in some cases banning, imports, and severely restricting Western business investments in China.

The pending bill takes advantage of the fact that China relies heavily upon the United States as its largest export market by using this significant economic leverage to improve respect for human rights and fair trading practices.

The use of slave labor in China is another serious abuse that our legislation would address. The 1987 State Department report on human rights practices in China states:

Sentencing to prison and labor reform usually entails participation in compulsory labor. Prison and labor reform camps are expected to be partially self-supporting if not operating at a profit.

Today, there are 4,000 to 6,000 such camps in China and Tibet, and between

10 and 20 million people are detained in these camps. These prisoners are used as slave labor to lower the costs of the country's exports—many of which are targeted for the U.S. market.

In addition, the legislation addresses China's arms sales to Third World nations. During the 1980's, China sold millions of dollars worth of nuclear and missile technology to South Asia, South Africa, South America, and the Middle East.

Now, China is building a nuclear reactor in Algeria that could fuel nuclear weapons.

In addition, it has contracted to sell missiles to Pakistan and Syria that can carry nuclear warheads and has reportedly entered into agreements to sell uranium and heavy water to Argentina, South Africa, and Brazil.

The pending bill limits such sales by conditioning the renewal of MFN on a reduction in the proliferation of weapons of mass destruction.

In light of the Chinese Government's unsatisfactory human rights record, unfair trade practices, and arms sales, unconditional renewal of MFN would only continue our current failed policy and be viewed by jailed democracy advocates as a silent endorsement of the repressive policies of the Chinese regime.

U.S. trade policy should not be held hostage by the threats of a government which not only kills and imprisons peaceful protesters and democracy advocates, but which has said that it will not hesitate to do so again.

The Chinese people have great respect for the democratic traditions of the United States. We all recall the statue of the Goddess of Democracy which brought such hope and determination to the thousands of prodemocracy advocates who participated peacefully in demonstrations in 1989, and which became a symbol to the world of their aspirations for democracy.

By conditioning the renewal of MFN status on an improvement in human rights, Congress can renew the hopes and aspirations of these long-suffering people and help to bring freedom and democratic reform to China and Tibet.

I commend Senator MITCHELL for his leadership and I urge my colleagues to join in supporting this important legislation.

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

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

HAPPY BIRTHDAY, SENATOR DOLE

Mr. BYRD. Mr. President, earlier this afternoon, I was pleased to wish happy birthday to the mother of the senior Senator from Massachusetts, TED KENNEDY. I have since been reminded that birthday greetings are also in order for another great American, and I am pleased to call attention to that birthday as well.

Today is the birthday of the senior Senator from Kansas, our distinguished colleague, Senator ROBERT DOLE. For many years, I have enjoyed the friendship and the collegiality of Senator DOLE, and I know that all of our fellow Senators join me in wishing for him the happiest of birthdays, and many, many more to come.

Senator DOLE is noted widely in the press and beyond for his wit and his quick mind. But as his colleague, I have long admired Senator DOLE for not only these attributes, but also for his legislative skills, his commitment to the Senate and its work, his unstinting energy in behalf of causes and purposes in which he believes, and his unsurpassed patriotism and his love for our country.

Erma joins with me in wishing a happy birthday to Senator DOLE, and we hope that this day will be an especially significant one for him and for his brilliant and lovely wife, Libby.

Mr. President:

The roses red upon my neighbor's vine
Are owned by him, but they are also mine.
His was the cost, and his the labor, too,
But mine as well as his the joy, their
loveliness to view.

They bloom for me and are for me as fair
As for the man who gives them all his care.
Thus, I am rich, because a good man grew
A rose-clad vine for all his neighbor's view.
I know from this that others plant for me,
And what they own, my joy may also be.
So why be selfish when so much that's fine
Is grown for me, upon my Kansas neighbor's
vine.

And I will break the rules of the Senate and say, "Happy birthday, BOB. Many, many more happy birthdays to you."

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ROSE KENNEDY: 101 YEARS YOUNG, STILL INSPIRING HER FAMILY AND AMERICA

Mr. DOLE. Mr. President, the distinguished President pro tempore, and earlier the distinguished majority leader, Senators BYRD and MITCHELL, were kind enough to mention today is my birthday, and I thank them both for their good wishes.

Let me also state for the record that I am proud to share this birthday with one of the most extraordinary women in American politics, Rose Kennedy.

As a loving wife, mother, grandmother, and great-grandmother, she has inspired her family for generation after generation, and through her devotion and compassion, she has continued to inspire us all. America knows the terrible family tragedy Rose Kennedy has had to bear, but despite the burden, she has endured with courage and grace.

Mr. President, I know my Senate colleagues join me in wishing this remarkable woman all the best on this, her 101st birthday.

Please let the RECORD show that July 22 belongs to Rose Kennedy.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

THE INOUE RURAL HEALTH BILL

Mr. GRASSLEY. Mr. President, I rise this evening to discuss two pieces of legislation that were introduced last week, and do this to urge my colleagues to join in the cosponsorship of this legislation.

Mr. President, I am joined in one of those pieces of legislation with Senators INOUE, BURDICK, DOLE, AKAKA, HARKIN, HATFIELD, SIMPSON, KERREY, CONRAD, DECONCINI, CRAIG, AND COCHRAN, to introduce legislation to reauthorize what I believe is an innovative and valuable rural health program.

This legislation would continue a program designed to address a number of health care problems characteristic of rural communities.

It tries to get at the shortage of health care personnel in rural communities by stimulating, through grants, long-term collaborative relationships between teaching institutions and health care providers in rural communities.

It would do this by making the establishment of such a relationship a condition of participating in the program. The idea is that if beginning health care workers actually practice in a rural community with established practitioners, not only will they be providing health care for the term of the grant, but they could also decide to stay in that community or to practice in some other rural community.

Our legislation also tries to get at some of the special health problems more prevalent in rural areas than in urban areas. It is well known, for instance, that there are more accidents in rural areas than in urban areas, and that the death rates in rural areas

from accidents are considerably higher than in urban areas.

This reflects the fact that agriculture is one of our most dangerous occupations. There can also be different environmental health problems in rural areas than in urban areas. For instance, in my own State of Iowa much concern has been generated in recent years about groundwater pollution from chemicals used in agriculture and the possible health threats it presents.

In any case, the program which would be reauthorized by this legislation places a strong emphasis on health care promotion and disease prevention services to individuals residing in rural communities. It also emphasizes the importance of focusing on rural occupational health and safety and environmental health concerns.

Finally, the program established by the legislation will give priority to projects emphasizing innovative ways of providing health care in rural areas where it is often more difficult to provide health care because of the distances individuals must go to reach health care providers or facilities.

These include projects which demonstrate innovative methods to provide access to cost-effective comprehensive health care in rural areas and projects to use innovative methods to train rural health practitioners.

The amounts authorized for this program are \$10 million for fiscal year 1992, \$15 million for fiscal year 1993, and \$15 million for fiscal year 1994.

I just want to add for the record that this program was originally developed by Senator INOUE with the assistance of Senator BURDICK and myself during the 100th Congress, and became part of Public Law 100-607.

Mr. President, last week I introduced a bill which would amend the Older Americans Act of 1965 by enhancing the information and referral services available to Alzheimer's disease victims and their families. This bill was introduced by Congresswoman OLYMPIA SNOWE in the House of Representatives.

Mr. President, the Congress will reauthorize again this year the Older Americans Act, one of our major public laws authorizing programs for older people. Since its original enactment in 1965, the Older Americans Act has become one of our great public success stories.

It establishes a Federal-State-local-government-private sector partnership which draws on Federal, State, and private sector funds to support many activities popular with older people.

I am pleased to offer this amendment to the act, Mr. President. I am also pleased to have cosponsored an amendment introduced by Senator GLENN on July 11 dealing with preventive health services under the act.

Ever since I first became concerned about Alzheimer's disease and the very

difficult problems it creates for victims and their families, I have been aware that locating appropriate services is one of the most difficult of these problems.

This is a concern that is always raised by families who care for an Alzheimer's disease victim. This was the case at hearings and at workshops I held in the 98th and 99th Congresses under the auspices of the Subcommittee on Aging of the Committee on Labor and Human Resources when I was its chairman.

This concern was also reported in the major study of Alzheimer's disease done by the Congressional Office of Technology Assessment called "Losing a Million Minds."

It became clear that the OTA could provide a valuable service by focusing directly on this problem and trying to see how services for Alzheimer's disease victims and their families could best be located for those in need of them.

Therefore, with other Senators, I requested OTA to do a followup to "Losing a Million Minds" which would focus on this problem. This led to a second OTA publication which appeared in late 1990 and was called "Confused Minds, Burdened Families."

That study confirmed many of the things families and their representatives had been saying about the difficulty of finding appropriate services.

That study also reviewed types of agencies that might have the capacity to provide this kind of brokerage service. Agencies reviewed included area agencies on aging, community mental health centers, Alzheimer's association chapters, home health agencies, and adult day care centers.

Although, according to OTA, all the organizations reviewed had strengths and weaknesses in relation to this problem, I believe that the existing information and referral capacity of the Older Americans Act network is well designed to be helpful with it.

Therefore, my bill would amend the act to call for the information and referral activity required of each area agency on aging to put emphasis "on linking services available to isolated older individuals and older individuals who are victims of Alzheimer's disease and related disorders * * *."

The bill also requires the Older Americans Act plan required of each State to include similar language.

Mr. President, this bill, if enacted, will not solve the problem of linking victims and their families with services. But I have great faith in the capacity of our area agencies on aging, and believe that they can definitely make a contribution to that end.

I yield the floor.

STATE AND LOCAL ACTION ON ACID-FREE PAPER

Mr. PELL. Mr. President, on October 12, 1990, the President signed, as Public Law 101-423, Senate Joint Resolution 57 to establish a national policy on permanent papers, which I had introduced in February 1989, and which was cosponsored by 47 members of the Senate. A companion joint resolution was introduced in the House by Representative PAT WILLIAMS in March of that year.

The Federal part of the law is now being implemented: for Government publications and documents of enduring value, the Government Printing Office is procuring alkaline papers, with a life of hundreds of years, replacing acidic paper with a life measured in decades.

I should like to report today on one of the subsidiary purposes of this legislation, namely to encourage non-Federal publishers, including State and local governments, to take similar action. A number of States had already begun to legislate in this area about the time my joint resolution was first introduced. In order of their action, they were:

Connecticut: Following a 1988 study resolution, Public Act 86-167 was enacted in 1989 to take effect on July 1, 1989. It required the use of acid free paper for "permanent State and local records." This law was later amended and strengthened.

Indiana: Section 3 of Public Law 30-1989 of May 5, 1989 amends the State code to require the use of archival quality paper for records that a commission determines should be preserved indefinitely.

Arizona: Section 101 of title 39 of the State code was amended in September 1989 to require the use of the "durable or permanent" paper for State documents.

Colorado: Senate Bill 90-78, passed in April 1990, requires the use of acid free, alkaline-based, or permanent-type paper for State publications after July 1, 1991.

Virginia: Following a study resolution passed in January 1990, a comprehensive bill was passed in February 1991. It requires the use of permanent paper for public records defined as "archival" and for all State publications of enduring value.

Massachusetts: By Executive Order 293 of December 31, 1990, alkaline or permanent papers will be required for most State records.

Nebraska: On March 11, 1991, the unicameral legislature adopted Legislative Resolution 45 urging State and local governmental agencies to publish documents, letters, and other papers of enduring value on alkaline permanent paper, and requiring the State Energy Office and the State records administrator to submit a report to the Committee on Government, Military, and

Veterans Affairs within 12 months, on the use of alkaline permanent paper, including recycled alkaline paper, in State and local government agencies.

CHAIRMAN REID'S LETTER

Through the efforts of legislators, officials and agencies, progress was being made, but the measures taken, except in Connecticut and Virginia, did not comprehensively cover all relevant State and local documents and publications. Then Charles Reid, Chairman of the U.S. National Commission on Libraries and Information Services, himself a long-time library trustee and former mayor, thought it would be helpful to bring the Federal policy and example directly to the Governors of the States, territories, and affiliated commonwealths. On March 16, 1991, he wrote a letter to the Governors of the States in which no action had been taken.

Mr. President, I am happy to report that Chairman REID's initiative has been warmly welcomed by the Governors. Their responses have been most encouraging, and replies are still coming in. Responses as of mid-June can be summarized as follows:

Alaska: The Division of State Libraries, Archives, and Records Management has under consideration proposed regulations to provide archival standards for the creation, maintenance, and preservation of records of enduring value in State agencies, whether on paper, acetate and plastic film and tape, or electronic media.

Florida: On November 8, 1990, the Paper Standards Committee of the Bureau of Archives and Records Management met with the User Advisory Committee of the Department of General Services, which is now developing a standard paper contract requiring a minimum PH (alkaline) level of 17.0.

Hawaii: The Hawaii State Archives is in the process of developing a recommended policy on the use of alkaline paper for government records and publications of enduring value.

Iowa: The State Historical Society and university presses in the State are using acid-free paper in their publications. On April 2, 1991, the State Records Commission received a report and recommendation of the State archivist that the commission prepare a legislative initiative for the 1992 session of the legislature.

Maryland: The Governor has now asked the Department of General Services, which contracts for many State agency publications, to require bids to be submitted for both acid and acid-free papers; and has asked the State archives to provide a list of manufacturers that can provide permanent papers.

Michigan: The Governor has now referred the issue to the Michigan Department of Management and Budget, which issues printing regulations to be followed by State agencies.

Mississippi: The Governor has now referred the matter to the Department

of Archives and History and the Division of Records Management.

Montana: In the 1991 session of the legislature Joint Resolution 22 was passed, calling on the State Library and the Legislative Council jointly to draw up guidelines for the use of acid-free paper for the publication of State documents, and report to the next legislature with recommendations.

New York: The State Library and the State Archives are working together to prepare proposed legislation.

North Carolina: As of April 26, 1991, and with the support of the Governor, House Bill 186 had been reported out of committee. It would require the State librarian and the librarian of the University of North Carolina at Chapel Hill to designate each year State documents and State publications that must be printed on alkaline paper.

Commonwealth of Northern Mariana Islands: The Governor has referred "this interesting and worthwhile proposal" to the appropriate agencies.

Rhode Island: In 1989 a resolution of the State legislature called for the establishment of a State policy on permanent paper, and in the 1991 session of the General Assembly legislation was introduced requiring the use of acid-free permanent paper in the printing of State documents.

South Dakota: As of April 3, 1991, the Governor reported that the legislature had recently approved Senate Bill 209 requiring State agencies to print permanent public records on acid-free, alkaline-based or permanent-type paper.

Washington: The State printer has a goal of using acid-free permanent papers for all State publications and documents, and already estimates that this goal is 85 percent achieved with paper that is not only acid-free but recycled.

Wisconsin: The Governor has now asked the Public Records Forms Board, the State Historical Society of Wisconsin, and the Department of Administration to study the feasibility of establishing a voluntary State program to use acid-free permanent paper for State publications and records of enduring value as recommended in section 2(3) of Public Law 101-423.

Mr. President, I hope that this tabulation of State activity on this important subject will be of interest to my colleagues in the Senate, so many of whom were cosponsors of the Federal law, and to those interested in this subject in the States. Hopefully, all States will eventually take action requiring publication on acid-free paper of documents of enduring value produced at the State and local level. The sooner this happens, the more the very high costs of trying to salvage deteriorated publications and documents will be avoided.

In closing, I wish most heartily to commend and thank the Honorable Charles E. Reid for his initiative in

writing to the Governors, as well as his earlier support of the joint resolution that became Public Law 101-423. I also wish to thank and acknowledge the help of Robert W. Frase of Falls Church, VA, for his assistance in preparing the summary of State actions taken prior to Chairman Reid's letter.

MARCH 16, 1991.

DEAR GOVERNOR: In accordance with our enabling Public Law 91-345, I have the honor of bringing to your attention the attached copy of Public Law 101-423, signed by President Bush on October 12, 1990, which establishes a National Policy on Permanent Papers.

Section 1 and Section 2(1) of the Act read as follows:

"Section 1—It is the policy of the United States that Federal records, books and publications of enduring value be produced on acid free permanent papers."

"Section 2(1)—Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing."

This policy has already been put into operation by the U.S. Government Printing Office (GPO), with the support of the Congressional committees on appropriations; and the GPO has reported, upon investigation, that acid free, permanent papers can be obtained at no higher costs to the government than acidic papers.

Section 2(3) of the law also carries the urgent recommendation of the Congress that:

"American publishers and State and local governments use acid free permanent papers for publications of enduring value in voluntary compliance with the American National Standard . . ."

I am sure that your State Librarian and Archivist have already advised you of the threatened loss of our historic heritage because of the deterioration of the acidic papers in almost universal use since the middle of the last century; and the need to address this problem in two ways:

To prevent the continuation of the problem by using acid free permanent papers with a life of several hundred years from this point forward; and

To salvage as much as it is practical of existing publications and documents by deacidification or by transferring their contents to more durable forms such as microfilming.

Several States have already taken legislative or administrative action to require the use of permanent papers and documents for important State publications and documents, or are in the process of doing so.

If in your State, there are legislative or administrative developments which your State anticipates or has taken in this area about which we have not been informed, we would appreciate receiving copies of the relevant materials. We are gathering this information for presentation to Congress.

In addition to Public Law 101-423, I am enclosing for your information the following documents:

President Bush's statement when signing P.L. 101-423 U.S. House of Representatives Report #101-680 on H. Res. 226 GPO Report to Chairman of House Appropriations Committee—May 1990 National Commission on Libraries and Information Science Resolution of Support of National Policy on Permanent Papers American Library Association resolution of January 10, 1990, regarding National

Policy on Permanent Papers, including Chronology.

American Library Association brochure explaining importance of implementing National Policy on Permanent Papers.

The U.S. National Commission on Libraries and Information Science would be interested in hearing from you regarding further progress in your State toward implementing P.L. 101-423.

Sincerely,

CHARLES E. REID,
Chairman.

REGARDING AMENDMENT NO. 800 TO THE VA/HUD APPROPRIATIONS BILL

Mr. DIXON. Mr. President, I rise to express my appreciation to the distinguished and able chairwoman of the HUD-Independent Agencies Appropriations Subcommittee for offering an amendment, No. 800, to H.R. 2519, the VA/HUD appropriations bill.

The amendment corrects an oversight in the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, which was recently brought to my attention by the Illinois Community Action Association. Senator CRANSTON and I worked with Senator MIKULSKI to correct this oversight.

As my colleagues know, the National Affordable Housing Act, which I co-sponsored, created the Home Investment Partnerships Grant Program to encourage the development of affordable housing at the State and local levels for low- and moderate-income families. The act strengthens the public-private partnership to provide affordable housing.

With this partnership goal, the National Affordable Housing Act requires State or local governments receiving grants under the HOME Program to set aside not less than 15 percent of their funds to community housing development organizations to manage and conserve low-income properties.

In addition, the National Affordable Housing Act precludes community housing development organizations from receiving HOME assistance for any fiscal year in an amount that, together with other Federal assistance, would provide more than 50 percent of the organization's operating budget in that year.

This language precludes groups like community action agencies from receiving the special set-aside funds if they otherwise qualify as community housing development organizations.

For 27 years, community action agencies have been in the forefront of providing essential comprehensive programs to help low-income families regain their independence, including assisting low-income families with housing. Community action agencies have a long history of housing rehabilitation, weatherization, and related activities.

The amendment which this body approved on last Thursday, removes the

barrier which inadvertently was created in the National Affordable Housing Act. Community action agencies, a major network of housing advocates, can once again actively and fully participate in our national housing strategy.

Mr. President, I urge Senator MIKULSKI and other conferees on the VA/HUD appropriations bill to do all in their power to preserve this important provision in H.R. 2519.

FOREIGN AID AUTHORIZATION BILL

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 147, S. 1435, the foreign aid authorization bill.

Mr. GRASSLEY. For the leader on this side of the aisle, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I now move to proceed to Calendar No. 147, S. 1435, the foreign aid authorization bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1435, a bill to amend the Foreign Assistance Act of 1961, and for other purposes:

Tom Harkin, Paul Wellstone, Richard Bryan, Wendell Ford, Bill Bradley, Joseph Lieberman, John Breaux, Wyche Fowler, Claiborne Pell, Terry Sanford, Charles S. Robb, Tom Daschle, Paul Simon, Paul Sarbanes, Max Baucus, Alan Cranston.

Mr. MITCHELL. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

SEQUENTIAL REFERRAL OF A NOMINATION—JOHN E. SCHROTE

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the nomination of Mr. John E. Schrote, to be Assistant Secretary for Policy, Management and Budget of the U.S. Department of the Interior, be referred to the Committee on Governmental Affairs for not to exceed 20 days, if and when reported by the Committee on Energy and Natural Resources.

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

DEPARTMENT OF VETERANS AFFAIRS CODIFICATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 132, H.R. 2525, the Department of Veterans Affairs Codification Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2525) to amend title 38, United States Code, to codify the provisions of law relating to the establishment of a Department of Veterans Affairs, and so forth, and for other purposes.

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. CRANSTON. Mr. President, I rise today to urge my colleagues to support H.R. 2525, the Department of Veterans Affairs Codification Act, as passed by the House on June 25.

The codification act would make technical amendments to title 38, United States Code, which contains all the major laws providing for benefits and services to veterans. This bill, which was drafted by the Office of the House Legislative Counsel, would make long overdue revisions to title 38 that will make it a better organized and more readable and understandable document. Provisions included in the bill reorganize and restate the laws relating to the authority of the Department and the Secretary of Veterans Affairs. In crafting this legislation, the drafters have been extremely careful not to change the meaning or intent of the existing law. As my counterpart on the House side, Representative SONNY MONTGOMERY, said in his statement of June 25—which begins on page H5028 of the RECORD—some may argue that the proposed word changes may result in significant changes in the meaning of the law. I want to state, in the strongest possible terms, that the purpose of this legislation is to make much-needed technical and organizational amendments to title 38 in order to enhance its usefulness. No substantive changes to the title would result if this legislation is adopted.

I express my appreciation to Bob Cover and others in the House Office of Legislative Counsel, Charlie Armstrong and others in the Senate Office of Legislative Counsel, and staff of the Office of the General Counsel in the Department of Veterans Affairs for their hard work and interest in this endeavor and for taking on the difficult task of reviewing and checking this legislation for technical accuracy.

For the benefit of my colleagues, I note that also beginning on page 16196 of the June 25 RECORD there appear two tables, prepared by the House Office of Legislative Counsel, showing the

source of new sections of title 38, United States Code, proposed to be enacted by H.R. 2525, and the proposed disposition of existing provisions of title 38 and Public Law 100-527.

Mr. President, I urge my colleagues to approve H.R. 2525.

Mr. GLENN. The Governmental Affairs Committee, which I chair, had a lead role with the Senate Veterans' Affairs Committee in writing the legislation which resulted in the conversion of the Veterans Administration to the Department of Veterans Affairs in 1988—Public Law 100-527. In addition, the committee has jurisdiction over the inspector general community established throughout the Government, including the Office of Inspector General in the Department of Veterans Affairs. Therefore, I have carefully reviewed H.R. 2525, which would codify certain provisions of Public Law 100-527 and make other changes in title 38. There are two provisions of H.R. 2525 which I would like to note and comment on at this time.

First, Public Law 100-527 changed two key VA positions—the Chief Medical Director and the Chief Benefits Director—into positions requiring Senate confirmation. That law required the President to appoint individuals to those positions "without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability" in their respective areas of expertise. I note that H.R. 2525 deletes the requirement that the President appoint these individuals on the basis of their integrity and refers only to demonstrated ability. I understand that by this change, the Senate Committee on Veterans' Affairs does not intend to imply that nominees for these positions should not be judged on the basis of their integrity, or that the President should not consider the individuals' integrity in selecting him or her for the appointment.

Mr. CRANSTON. The Senator from Ohio is correct. That is not the intent of the Committee on Veterans' Affairs, as the Senator from Ohio knows, these two positions are treated differently under the Department of Veterans Affairs Act from other top VA positions. They are the only positions under that act requiring Senate confirmation as to which no political affiliation test can be applied. In addition, each position is appointed for a 4-year term and, if the President were to remove an incumbent before the end of the term, the President would be required to notify Congress of the reasons for the removal. Thus, it should be clear for all concerned that our committee pays very particular attention to these two positions and will indeed continue to evaluate candidates for these positions on the basis of their fundamental suitability, which surely includes their integrity.

Mr. GLENN. I thank the chairman of the Veterans' Affairs Committee for the explanation. Also, I note that pursuant to current section 203 of title 38 of the United States Code, the law requires that—

Any funds appropriated * * * may be used for a settlement of more than \$1 million on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is provided for specifically in an appropriation law.

This provision would allow either the independent statutory IG within the Department to perform such an audit, or an entity outside the Department such as the Defense Contract Audit Agency or GAO. H.R. 2525 would change the law to require that the audit be performed by "an entity outside the Department," thus prohibiting the IG from performing such audits. I do not believe this change is appropriate or good public policy. I would therefore request that the Veterans' Affairs Committee reconsider this matter in future legislation and restore to the IG the authority to perform such audits.

Mr. CRANSTON. I appreciate the concerns of the Senator from Ohio and believe that they are well placed. I will revisit this issue as part of an overall look at the provision in question, which will be new section 313 of title 38 once this legislation is enacted, and will seek to persuade my colleagues on the House Veterans' Affairs Committee of the merits of allowing the Department of Veterans Affairs IG to perform this audit function.

Mr. SPECTER. Mr. President, I am pleased to support passage of H.R. 2525, the Department of Veterans Affairs Codification Act.

This bill makes technical changes to laws governing the Department of Veterans Affairs. The impetus for this effort—which includes a reorganization and restatement of the laws relating to the authority of the Department and of the Secretary—was the Department of Veterans Affairs Act, Public Law 100-527, which elevated VA to Cabinet status.

I want to emphasize, Mr. President, that the changes made by H.R. 2525 are purely technical, and are not intended to have any substantive effect.

This technical effort has been a major undertaking, in progress, Mr. President, for more than a year. I would like to thank both Senate and House committee staff for their hard work on this measure, particularly Bill Brew of the Senate staff and Pat Ryan of the House. I would also like to express my gratitude to the Senate and House Legislative Counsel, especially Charlie Armstrong of the Senate and Bob Cover of the House. Finally, I would like to thank VA's Office of General Counsel, under the direction of Deputy General Bob Coy, for its invaluable technical assistance on this measure.

I urge my colleagues to support this measure.

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

The bill (H.R. 2525) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

AUTHORIZATION OF LEGAL REPRESENTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Senate Resolution 156 submitted earlier today by Senators FORD and STEVENS to authorize the payment of legal representation expenses of certain Senate employees.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 156) authorizing the Committee on Rules and Administration to provide legal representation to certain present or former employees of the staff of Senator D'AMATO.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. FORD. Mr. President, earlier today the joint leadership group of the Senate made the following recommendation to the Senate Legal Counsel regarding representation of certain present and former Senate employees in connection with an upcoming grand jury proceeding:

RECOMMENDATION OF ACTION TO AVOID CONFLICT OR INCONSISTENCY IN THE REPRESENTATION OF SENATE PARTIES

Pursuant to §710(a) of the Ethics in Government Act of 1978, 2 U.S.C. §288(a) (1988), it is recommended that the Senate Legal Counsel take the following action in order to avoid a potential conflict that could arise between the Legal Counsel's responsibilities to the Select Committee on Ethics and representation of present or former members of Senator D'Amato's staff who have been, or may be, asked to provide evidence to the federal grand jury in the Eastern District of New York. In the event that any such individual desires legal representation in connection with an appearance before the grand jury, the Senate Legal Counsel shall refer him or her to the Committee on Rules and Administration for assistance in arranging for the employment of private counsel for representation with respect to official actions and responsibilities.

SENATE JOINT LEADERSHIP GROUP.
JULY 22, 1991.

Two former Senate employees who were on the staff of Senator D'AMATO have contacted the Rules Committee

for assistance in arranging for representation. Consequently, Senator STEVENS, ranking minority member on the Rules Committee, and I have prepared this resolution to authorize retention of outside counsel, as a substitute for the representation which normally would have been provided by the Senate Legal Counsel. It is routine for the Senate to provide such representation to protect the privileges of the Senate. I therefore urge adoption of the resolution.

Mr. STEVENS. Mr. President, I concur in what the chairman has said and support the resolution.

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

The resolution (S. Res. 156) was agreed to, as follows:

S. RES. 156

Resolved, That (a) the Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate, legal expenses associated with the employment of private counsel to represent, subject to subsection (b), any present or former employee of the Senate on the staff of Senator D'Amato, with respect to official actions and responsibilities of such employees while on the staff of Senator D'Amato, in connection with testimony before the grand jury in United States District Court for the Eastern District of New York.

(b) The employees to be covered by such representation, and the amount of legal expenses to be paid, shall be determined by the Committee on Rules and Administration.

Mr. MITCHELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

ENROLLED BILL SIGNED

At 2:34 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 751. An Act to enhance the literacy and basic skills of adults to ensure that all adults in the United States acquire the basic skills necessary to function effectively and

achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. LIEBERMAN).

At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1776. An Act to authorize for fiscal year 1992 the United States Coast Guard Budget.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1776. An Act to authorize for fiscal year 1992 the United States Coast Guard Budget; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes (Rept. No. 102-114).

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

S. 1508. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1509. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1510. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military personnel activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1511. An original bill to authorize further supplemental appropriations for fiscal year 1991 for incremental expenses associated with Operation Desert Storm, and for other purposes.

S. 1512. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1513. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military construction for the Department of Defense, and for other purposes.

S. 1514. An original bill to authorize appropriations for fiscal years 1992 and 1993 for defense activities of the Department of Energy, and for other purposes.

S. 1515. An original bill to establish the Commission on the Assignment of Women in the Armed Forces.

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. NUNN, from the Committee on Armed Services:

S. 1508. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1509. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1510. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military personnel programs of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1511. An original bill to authorize further supplemental appropriations for fiscal year 1991 for incremental expenses associated with Operation Desert Storm, and for other purposes; placed on the calendar.

S. 1512. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1513. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military construction for the Department of Defense, and for other purposes; placed on the calendar.

S. 1514. An original bill to authorize appropriations for fiscal years 1992 and 1993 for defense activities of the Department of Energy, and for other purposes; placed on the calendar.

S. 1515. An original bill to establish the Commission on the Assignment of Women in the Armed Forces; placed on the calendar.

By Mr. CRANSTON (by request):

S. 1516. A bill to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans Affairs.

S. 1517. A bill to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans Affairs.

S. 1518. A bill to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses; and for other purposes; to the Committee on Veterans Affairs.

S. 1519. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance

programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans Affairs.

By Mr. BENTSEN (for himself, Mr. BRADLEY, Mr. CHAFFEE, Mr. BREAUX, and Mr. DURENBERGER):

S. 1520. A bill to amend title XVIII of the Social Security Act to make certain changes with respect to extended care and home health services, and to provide for a waiver of certain Medicaid requirements to conduct a demonstration project with respect to adult day care services, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. GRASSLEY, Mr. THURMOND, and Mr. PACKWOOD):

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material; to the Committee on Judiciary.

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. BAUCUS, Mr. DOLE, Mr. PRYOR, Mr. SYMMS, Mr. BREAUX, Mr. ROTH, Mr. DASCHLE, Mr. GRASSLEY, Mr. RIEGLE, Mr. LEAHY, Mr. LUGAR, Mr. HEFLIN, Mr. COCHRAN, Mr. HELMS, Mr. CONRAD, Mr. DANFORTH, Mr. HARKIN, Mr. SEYMOUR, Mr. AKAKA, Mr. BOND, Mr. DECONCINI, Mr. DIXON, Mr. EXON, Mr. FORD, Mr. GORTON, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KERRY, Mr. LEVIN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. WIRTH, Mr. BROWN, Mr. CRAIG, Mr. WELLSTONE, Mr. ADAMS, and Mr. CRANSTON):

S. 1522. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. HARKIN, Mr. PELL, and Mr. SIMON):

S. 1523. A bill to amend the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 1524. A bill to suspend temporarily the duty on disperse red 279; to the Committee on Finance.

S. 1525. A bill to suspend temporarily the duty on luvican m-170 and luvican ep; to the Committee on Finance.

S. 1526. A bill to suspend temporarily the duty on fastusol C blue 76L; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. FORD, and Mr. STEVENS):

S. Res. 156. Resolution authorizing the Committee on Rules and Administration to provide legal representation to certain present or former employees on the staff of Senator D'AMATO; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (by request):

S. 1516. A bill to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS REFORM ACT OF 1991

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1516, the proposed Veterans' Benefits Reform Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 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 July 2, 1991, transmittal letter.

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

S. 1516

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

TITLE I—SHORT TITLE AND REFERENCES

SEC. 101. This Act may be cited as the "Veterans' Benefits Reform Act of 1991."

SEC. 102. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, 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.

TITLE II—PRESERVATION OF DISABILITY RATINGS

SEC. 201. Section 110 is amended by inserting "(a)" before the text of that section and adding the following new subsections:

"(b) A rating protected under subsection (a) of this section shall not be combined with any other rating to provide a higher rate of compensation, unless the facts found continue to support the protected rating.

"(c) For purposes of chapter 11 of this title, the provisions of subsection (a) of this section shall not apply to a total disability rating based on unemployability of the individual, where the individual has engaged in gainful employment during the period when the rating was in force."

TITLE III—RENOUNCEMENT OF RIGHT TO BENEFITS

SEC. 301. Section 3106 is amended by adding the following new subsection:

"(c) Notwithstanding subsection (b) of this section, where a new application for pension under chapter 15 of this title or dependency and indemnity compensation to parents under section 415 of this title is filed within one year after renouncement of that benefit,

the application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred."

TITLE IV—COMMUNICATIONS CONCERNING BENEFITS

SEC. 401. Subsection (f) of section 3020 is amended by adding the following new paragraph:

"(3) The Secretary shall prescribe an appropriate method or methods for provision of notices concerning benefits and verification of continued eligibility for benefits to payees for whom; provide the Department of Veterans Affairs does not have a current mailing address. Notwithstanding section 3003(c) of this title and paragraphs (1) and (2) of this subsection, and pursuant to regulations promulgated by the Secretary under this paragraph, the Secretary may suspend benefit payments to payees who fail or refuse to provide a current mailing address or cooperate in the establishment of another appropriate method of communication for provision of notices concerning benefits and verification of continued eligibility for benefits. Such regulations shall be designed to ensure that benefit payments will be resumed promptly once a current mailing address of the payee is provided or other appropriate method of communication is established."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans Benefits Reform Act of 1991." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

In general, the draft bill's three substantive titles would—

limit the protection afforded certain disability ratings which have been continuously in force for twenty or more years;

ensure that when a new claim for an income-based benefit is filed within a year of renouncement of the benefit, any income received during the interval between the renouncement and the filing of the new application will be considered for income-computation purposes; and

authorize VA, pursuant to regulations, to suspend benefit payments if a payee fails to keep VA informed of the payee's current mailing address or cooperate in the establishment of another appropriate method of communication concerning benefits.

As explained below, these provisions are intended to increase the efficiency and integrity of programs serving the needs of our veterans and their survivors.

PRESERVATION OF DISABILITY RATINGS

Title II of the draft bill would limit the protection afforded certain disability ratings under 38 U.S.C. §110. Current law provides that a disability which has been continuously rated at or above a percentage disability evaluation for twenty or more years for compensation purposes shall not be rated thereafter at less than such evaluation, except upon a showing of fraud. The legislative history of this provision shows its primary purpose is to prevent the reduction in income support on which a veteran would understandably come to rely over the course of many years. However, as currently worded, this provision not only protects a veteran against the loss of benefits, but can have the effect of unjustifiably compensating the vet-

eran beyond the level which he or she could justifiably expect.

For example, protection of a total disability rating which is no longer warranted can occur when, for whatever reason, the Department of Veterans Affairs (VA) fails to discover the inaccuracy of the rating until after it has been in effect for twenty years or more. After twenty years, the total disability rating is protected under section 110 and the veteran will receive compensation at the one-hundred-percent rate for the rest of his or her life. However, if the veteran has other disabilities ratable at sixty percent or more, special monthly compensation would be payable at the rate specified in 38 U.S.C. §314(s). Thus, the protected disability rating has the effect of providing basic entitlement to an unjustifiably high rate of special monthly compensation. Untoward results can also occur when a protected rating is combined with ratings for other disabling conditions which have increased in severity, giving rise to a higher than warranted combined rating. In neither of these situations has the veteran come to rely on the higher rate of benefits which will result from protection of the disability rating.

In addition, VA's disability rating schedule provides that a total disability rating may be assigned when the schedular rating is less than total, if the veteran is unemployable as a result of any service-connected disability or disabilities. If a veteran who receives a total disability rating under this individual unemployability provision returns to employment, but the individual unemployability rating is not reduced before the expiration of twenty years from the date it was assigned, the disability rating will still be protected under section 110 despite the fact that the veteran has other income and is no longer dependent on the Federal benefit.

Section 201 would amend current section 110 to preserve the basic purpose of the protection provision while eliminating the unwarranted effects of protection of certain disability ratings. Thus, section 201 would amend section 110 to (1) provide that a rating protected under that section shall not be combined with any other rating to provide a higher rate of compensation, unless the facts found continue to support the protected rating and (2) provide that the section shall not apply to total disability ratings for compensation based on unemployability of the individual where the individual has actually engaged in gainful employment.

Enactment of section 201 would result in estimated pay-as-you-go savings of \$2.4 million over the five-year period, FY 1991-1995.

RENOUNCEMENT OF RIGHT TO BENEFITS

Title III of the draft bill would amend 38 U.S.C. §3106 to provide that when a new claim for an income-based benefit is filed within a year of a renouncement of the benefit, benefits will be payable as if the renouncement had not occurred. Under current law, a claimant has the right to renounce pension, compensation, or dependency and indemnity compensation and, following such renouncement, has the right to file a new application for the benefit, which application is treated as an original application. Under current law, a claimant receiving a need-based benefit, i.e., pension or parents' dependency and indemnity compensation, may renounce the benefit in anticipation of receipt of nonrecurring income and then, following the receipt of such income, reapply for pension benefits. Such a claimant, who renounces the benefit and then reapplies within a year of the renouncement, can effectively avoid having the income re-

ceived during the interval between the renouncement and the new application considered for income-computation purposes. Existence of this "loophole" is inconsistent with the objective of the improved-pension program that benefits be provided on the basis of actual need.

Section 301 would eliminate this "loophole" in section 3106 by providing that a new application for pension or parents' dependency and indemnity compensation filed within one year after a renouncement shall not be treated as an original application and that benefits will be payable as if the renouncement had not occurred. This will ensure that income received during the interval between the renouncement and the filing of the new application will be considered for income-computation purposes.

Enactment of section 301 would result in estimated pay-as-you-go savings of \$400,000 over the five-year period, FY 1991-1995.

COMMUNICATIONS CONCERNING BENEFITS

Title IV of the draft bill would authorize VA to suspend benefit payments if the payee fails to keep VA informed of the payee's current mailing address or cooperate in the establishment of another method of communication concerning benefits.

Section 3020(f) of title 38, U.S. Code, provides that, if a payee does not have a mailing address, payments will be delivered under methods prescribed by VA. This provision addresses the problems that the lack of a mailing address causes recipients in receiving their benefits. However, an amendment is necessary to address the problems that the lack of a mailing address causes VA in fulfilling its responsibilities to assure that veterans' benefits are provided in accordance with law. In the absence of a current mailing address or other arrangements, VA cannot contact beneficiaries in order to provide notice or information about benefits, request verification of continued entitlement, and investigate possible fraud.

Section 401 of the draft bill would amend 38 U.S.C. §3020(f) to authorize the Secretary to prescribe an appropriate method or methods for communicating with beneficiaries and would authorize suspension of payments to payees who fail or refuse to provide the Secretary with a current mailing address or cooperate in establishing another appropriate method of communication for provision of notices concerning benefits and verification of continued eligibility. The regulations would ensure that payments will be resumed promptly once a current mailing address or other appropriate means of communication with the payee is established. The amendment will assist VA in obtaining evidence in support of claims while reducing fraud, waste, and abuse. VA believes that it is not unreasonable to require that recipients of VA benefits make themselves available to provide information and to receive notices concerning benefits provided to them.

Enactment of section 401 would result in estimated pay-as-you-go savings of \$3 million over the five-year period, FY 1991-1995.

The effect of this draft bill on the deficit is:

(By fiscal years—in millions of dollars)

	1991	1992	1993	1994	1995	1991-95
Outlays						
Receipts						
		-1.3	-1.4	-1.5	-1.6	-5.8

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should re-

sult in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The "Veterans' Benefits Reform Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation to Congress and its enactment would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD J. DERWINSKI.

By Mr. CRANSTON (by request):

S. 1517. A bill to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

VETERANS LOAN ASSET SALE ACT

● Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1517, the proposed Veterans' Loan Asset Sale Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 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 July 2, 1991, transmittal letter and enclosed bill analysis.

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

S. 1517

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Loan Asset Sale Act of 1991".

SEC. 2. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 1820 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith the "Veterans' Loan Asset Sale Act of 1991," a draft bill, "To amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The proposed legislation would benefit VA's vendee loan sale program by authorizing the Department to guarantee the REMIC certificates sold to investors when VA's vendee loans are securitized, usually three sales per year with a total annual volume of about \$800 million. VA already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945, long before modern mortgage backed securities were developed, VA cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans.

Lack of a direct certificate guaranty prevents VA from obtaining the best pricing for its securitized loans. With the proposed legislation, the estimated decrease in yield that will have to be given to investors is estimated to be 10 basis points, which, of course, results in more proceeds to VA and reduced subsidy costs. In addition, SEC and rating agency fees will be avoided. Thus, total additional revenue to VA, based on securitizing \$800 million of vendee loans per year, would result in estimated pay-as-you-go savings of \$21.8 million over the 5-year period FYs 1991-1995. Because VA already provides a 100 percent full faith and credit guaranty on the underlying loans, there will be no material increase in risk to the Government. VA's ability to perform its obligation to make "timely" payments to investors will be assured by the cash reserves that are established for each securitized sale and by the other elements of the REMIC credit structure.

VETERANS' LOAN ASSET SALE ACT OF 1991

The effect of this draft bill on the deficit is:

(By fiscal years—in millions of dollars)

	1991	1992	1993	1994	1995	1991-95
Outlays	1.8	-5.3	-5.2	-4.9	-4.6	-21.8
Receipts						

¹ Assumes enactment prior to August 1, 1991, as it would apply to the next loan sale.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenues and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. The "Veterans' Loan Asset Sale Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation to Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF DRAFT BILL

This draft bill would amend title 38, United States Code, to permit the Secretary of the Department of Veterans Affairs to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37.

The mortgage loans in question are vendee loans that arise as an incident to VA's GI Loan Guaranty program. On some number of defaulted GI loans, it is less expensive for VA to make partial payments on its guaranties and take over the residential properties than to "no bid," that is pay the entire guaranty amount and leave the properties with the mortgagees/mortgagors. When VA acquires properties, it resells them and a substantial number are sold with purchase money mortgage financing, i.e., with financing provided by VA. These loans are known as "vendee loans." VA then sells the vendee loans in the secondary mortgage market.

Over the past year, VA has brought its vendee loan sale program to a high level of efficiency. The loans are pooled and securitized, usually in three sales per year with an annual volume of about \$800,000,000. The securitization vehicle is a special purpose trust, which issues multiple-class pass-through certificates and elects to be taxed as a Real Estate Mortgage Investment Conduit (REMIC). Outside firms, selected through competitive bidding, assist VA in setting up and operating each REMIC and in selling the certificates to investors: underwriters, trust counsel, trust auditor, trustee, master servicer and printer. Credit structure and documentation have become standardized, and fees for the outside firms are very competitive. Closing costs now aggregate less than one-half of one percent of the balance of the loans sold, and master servicer and trustee fees, together, are just 23 basis points per year on the outstanding loans (100 basis points equaling one percentage point). VA furnishes a 100 percent full faith and credit guaranty on the vendee loans in each pool. Accordingly, pricing of the VA certificates is good, better than VA used to get under its old 4600 program by selling loans through competitive auction for resale into the GNMA (Ginnie Mae or Government National Mortgage Association) market. In addition, the highly efficient arrangement with the firms that act as master servicers, under which VA covers default losses only after the properties have been foreclosed and sold, results in lower lifecycle costs to VA than with the former 4600 program, under which VA was obligated to buy back loans after 90 days delinquency.

However, at present VA does not and cannot guarantee the REMIC pass-through certificates themselves, as distinguished from the underlying vendee mortgage loans. VA's legislation dates from 1945, long before development of modern mortgage pass-through certificates, and speaks in terms of guaranteeing mortgage loans, not certificates that are marketed and traded as securities and represent an interest in a pool of mortgage loans.

The lack of a guaranty promise running directly from VA to the investor means that VA does not get the best price when it securitizes its loans. A certificate guaranty promising timely payment of interest and principal would increase proceeds to VA by decreasing the interest rate or "yield" that must be offered to investors by an estimated 10 basis points. On \$800,000,000 of sales, VA's approximate annual volume, this could be

additional proceeds to VA of approximately \$5 million per year. In addition, VA's loan sale expenses would decrease by about \$400,000 per year, because a U.S. Government guaranteed security need not be registered with the SEC nor rated as to credit worthiness by the commercial rating agencies.

A VA guaranteed certificate would offer the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of GNMA certificates. (Currently, GNMA's are single-class pass-through certificates, not multi-class REMICs. GNMA is studying, but has not yet adopted, a multi-class pass-through REMIC program.) Because VA already offers a 100 percent guaranty on the underlying loans in its REMIC pools, adding a direct certificate guaranty of timely payment would result in no material increase in risk or cost to the Government.

The remainder of this analysis addresses the following questions: (1) What will a VA certificate guaranty look like? (2) How does VA's present vendee loan guaranty differ from a certificate guaranty? (3) What benefit will VA realize from a certificate guaranty? (4) Will there be additional risk to the Government? (5) How will VA ensure that its guaranty of "timely" payment is honored? (6) Will the timeliness guaranty result in additional cost to the Government? (7) Can VA verify that its REMIC structures are quantitatively sound? (8) Why doesn't VA sell its vendee loans through GNMA, particularly if GNMA adopts a REMIC program?

(1) What Will a VA Certificate Guaranty Look Like?

VA's certificate guaranty will be similar to the guaranty that GNMA (the Government National Mortgage Association or Ginnie Mae) puts on GNMA certificates. For each VA vendee loan sale a trust will be formed to hold the mortgage notes and mortgages, to issue certificates, and to sell the certificates to investors. The trust will make an election under the Real Estate Mortgage Investment Conduit (REMIC) tax provisions and will promise to pay to investors monthly the principal and interest due on the mortgages plus prepayments received. It is anticipated that each trust will obtain the cash required to make these payments from payments on the mortgages, master servicer advances of delinquent payments and VA guaranty payments with respect to defaulted loans. To provide maximum assurance of timely payment to investors, VA will guarantee that the investor payments will be made on a timely basis to holders of the certificates, regardless of assets held by or payments made into the trust. VA's guaranty will pledge the full faith and credit of the United States and will be printed on the face of the certificates.

(2) How does VA's Present Vendee Loan Guaranty Differ from a Certificate Guaranty?

At present, i.e., since American Housing Trust VI (AHT-VI) sold in May 1990, VA provides a set of interrelated and full (i.e., 100 percent) loan guaranty promises to the trust organized for each transaction. These include a representation of the principal dollar amount in the mortgage pool, protection against loss of principal and interest from default or other cause, and assurance of additional interest at the certificate rate if there is delay in advancing for shortfalls in scheduled interest and principal. See (5), below, for an explanation of the mechanisms that VA uses to ensure that its guaranty operates smoothly and that holders of AHT certificates are paid in full and on time.

However, this current VA guaranty does not provide 100 percent assurance to holders of certificates directly from VA that the expected payments will be made. The proposed certificate guaranty will provide such assurance. The investor will see a simple and straightforward full faith and credit promise rather than face a relatively complex structure that must be analyzed and understood before the investor can become comfortable.

(3) What Benefit Will VA Realize from a Certificate Guaranty?

The bottom line benefit is better pricing. The First Boston Corporation, currently VA's lead underwriter, estimates that a certificate guaranty of timely payment will reduce the yield that must be offered to investors by 5 to 15 basis points. Assuming a reduction in yield of 10 basis points, this will result in additional proceeds and reduced subsidy costs to VA of approximately \$5 million per year on a volume of \$800,000,000, VA's approximate annual volume. Kidder, Peabody & Company, VA's financial advisor, concurs in this estimate. The higher price will be brought about by greater investor demand for the product, and the greater demand has two principal causes. First, with a certificate guaranty, VA's vendee securities will have a zero risk weighting under the bank and thrift capitalization rules, rather than their present 20 percent risk weighting. Second, a significant number of large investors, including mutual funds, foreign government accounts, etc., have guidelines or practices that restrict them to securities directly issued or guaranteed by the Government.

With a certificate guaranty, VA also will save on SEC and rating agency expenses presently totaling approximately \$400,000 per year. This saving will be without loss of corresponding benefit. The credit structure and documentation for VA's REMIC has become quite standardized over the past year, and the level of actual review and comment by the SEC and the rating agencies is minimal. Investors will continue to receive the same disclosure and information that now is furnished in a Prospectus and Supplement.

A guaranty of timely payment of principal and interest is the kind of straightforward Government guaranty that the market has come to expect, e.g., GNMA's timely payment guaranty. However, in a clear demonstration of the worth that investors place on a certificate guaranty as distinguished from a loan guaranty, VA's lead underwriter and financial advisor estimate that even a certificate guaranty limited to ultimate payment of principal and interest plus yield maintenance (similar to VA's present guaranty), but not including timely payment, would capture most of the pricing benefit for VA. The big difference is between guaranteeing the underlying loans and directly guaranteeing the certificates that investors buy.

It also should be noted that a Government guaranteed security would be more attractive in the retail market.

(4) Will There Be Additional Risk to the Government?

There will be no material additional risk. VA's present guaranty already covers 100 percent of the credit risk on the vendee loans. Theoretically, a certificate guaranty will expose VA to the risks that if (i) the REMIC trust becomes subject to federal or state tax, (ii) there is an unreimbursed investment loss on mortgage payments before they are distributed, (iii) trustee defalcation occurs or (iv) the REMIC structure is faulty, there will be a shortfall in cash available to pay certificateholders and VA will have to make up the deficiency. However, these theo-

retical risks are essentially zero as a practical matter, given the expert legal, accounting, investment banking and trust administration advisors that work with VA in setting up and operating its trusts, the quality and financial strength of the trustee employed, and the requirement that mortgage payments be invested only in tightly circumscribed "Permitted Investments."

(5) How Will VA Ensure that its Guaranty of "Timely" Payment Is Honored?

VA will use the same credit structure that it now uses, but possibly with somewhat more up-front cash funding of the specific loss reserve set up for each sale. The structure uses a combination of readily available cash and third-party support to provide up to six months time for VA to obtain from Congress the additional funds needed to honor its guaranty if losses prove to be outside the range anticipated. Because of the change to the permanent indefinite budget authority, losses on loans originated after September 30, 1991, will be funded without approval from Congress and, therefore, would not require a 6-month cushion.

Both the master servicer and the trustee promise to advance funds to cover shortfalls in scheduled interest and principal; i.e., from delinquency or default, and VA promises to reimburse them "promptly." The trustee is always a major money center bank, currently Bankers Trust Company. For each transaction, a specific reserve is established, funded by a combination of cash from certificate sale proceeds and cash from monthly distributions on a portion of the subordinate certificates retained by VA from earlier, non-guaranteed vendee loan sales. The master servicer and the trustee may withdraw cash from the reserve to cover advances. Reserve moneys are readily available because they are invested in a U.S. Treasury money market mutual fund.

As part of its guaranty, VA promises to restore the reserve "promptly" to a specified floor level if it should fall below that level. "Promptly" has been defined by VA as meaning probably within a month or two, perhaps three months, but in no event longer than six months. Six months was chosen to afford adequate time for VA to go to Congress for a supplemental appropriation. It is unlikely that the reserve fund would need such a large infusion. The loss coverage was based on a worst case (Texas) scenario.

Thus, VA will not have to respond under a timely payment certificate guaranty until the following resources have been exhausted: (1) cash in the reserve set up for the particular loan sale transaction, (2) the promise of the master servicer to advance for any shortfall in scheduled interest and principal, and (3) the promise of the trustee to advance for any shortfall in scheduled interest and principal if the master servicer fails to advance. These resources are in addition to the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund. While VA is obligated to reimburse the master servicer and trustee for advances, this full faith and credit reimbursement obligation is subject to the same "promptly" standard as VA's obligation to bring the reserve back to its specified floor, i.e., within six months.

By funding the reserve with an appropriate amount of cash set aside from sale proceeds, the risk of VA being unable to honor a timeliness certificate guaranty can be eliminated under any specified stress scenario. The upper bound is a scenario that assumes all vendee mortgagors stop paying the day after the certificates are sold, that both the master servicer and the trustee default on their

promises to advance, and that the Loan Guaranty Revolving Fund or the Guaranty and Indemnity Fund, as the case may be, has a zero balance. Even under such an obviously unreasonable scenario a cash reserve of 5 to 6 percent will secure the six-month time period to get a supplemental appropriation from Congress. VA expects to work in close and on-going consultation with OMB to ensure that reserve cash balances are set and maintained at levels fully adequate to eliminate any real risk that VA might not be able to honor its timeliness guaranty.

(6) Will the Timeliness Guaranty Result in Additional Cost to the Government?

There will be no additional cost to the Government. The only change from present VA practice will be a possible increase in the size of the cash reserve set up for each sale. If the reserve is increased, cash that otherwise would have gone to the Loan Guaranty Revolving Fund or the Guaranty and Indemnity Fund financing accounts will go to the cash reserve. The reserve is invested in U.S. Treasuries, through a money market mutual fund whose investments must be all or substantially all "direct obligations of the United States."

(7) Can VA Verify that Its REMIC Structures Are Quantitatively Sound?

VA employs cross-checks with several outside experts to ensure that its REMIC pass-through certificate structures are sound. It is true that sophisticated computer programs and experienced operators are needed to model the many "what if" possibilities for a REMIC structure and ensure that there is neither shortfall nor excess between what comes into the mortgage pool and what is to be paid out, regardless of delinquencies and defaults. VA does not itself have these programs and expertise. Instead, VA assembles an expert team through competitive bidding and uses an underwriting rather than an auction approach for its REMIC sales. This permits VA and its team to begin work on each vendee loan sale many weeks in advance of the scheduled closing date, allowing much more time to explore and analyze alternative structures than would be the case with an auction approach. The structure ultimately selected is checked and verified for VA by the lead and co-lead underwriters, by VA's financial advisor and by a major independent accounting firm, each of which has the required computer capability and expertise. The level of protection is, essentially, 100 percent.

(8) Why Doesn't VA Sell Its Vendee Loans Through GNMA, Particularly If GNMA Adopts a REMIC Program?

VA's present securitized vendee loan sales, even without a VA guaranty directly on the certificates, produce better results for VA and the Government than the old 4600 sales into the GNMA market. The reason is a combination of better up-front pricing to VA (4600 bids by private parties were not all that high) and better efficiency in operation. In 4600 sales, VA had to buy back loans after 90 days delinquency. In securitized sales, VA does not take back loans and does not pay for losses until foreclosure and sale of the property to a new buyer have been completed by the master servicer. However, this efficient approach is not a permissible procedure under the GNMA program, even if VA was able to qualify as a GNMA issuer.

The key question is whether VA and the U.S. Government as a whole will be better off having two REMIC programs operating side by side, a VA guaranteed REMIC and a GNMA guaranteed REMIC? The answer to this question cannot be known in advance.

GNMA does not now have a REMIC program. When it gets one, it may or may not want VA vendee loans, which have their own prepayment history and market image. Of course, there should be dialogue and coordination between VA and GNMA, and a considered and reviewed decision should be made after GNMA gets its REMIC program up and running. Until then, VA's REMIC program for vendee loans, with a certificate guaranty, is the best alternative for VA and for the Government.

Conclusion:

The VA loan securitization program has been successful in providing access to the world's most efficient capital markets for the financing of VA vendee loans. This has been accomplished through an indirect guaranty of the securities. For their own reasons, the various investors demand a higher yield (or reduced price) for indirectly guaranteed securities than for directly guaranteed securities. Converting the indirect guaranty to a direct certificate guaranty also will reduce the securitization expenses (such as SEC and rating agency fees) that VA presently incurs as if it were a private party rather than a department of the U.S. Government.

These elements in combination make a compelling case for reducing Government expenses and increasing Government revenues by permitting a direct guaranty of securities evidencing an interest in chapter 17 vendee loans.♦

By Mr. CRANSTON (by request):

S. 1518. A bill to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' AND SURVIVORS' COMPENSATION AND PENSION IMPROVEMENT ACT

♦ Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1518, the proposed Veterans' and Survivors' Compensation and Pension Improvement Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 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 July 2, 1991, transmittal letter.

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

S. 1518

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

TITLE I—SHORT TITLE AND REFERENCES

SEC. 101. This Act may be cited as the "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991."

SEC. 102. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, 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.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION EQUALIZATION

SEC. 201. Section 411 of title 38, United States Code, is amended—

(a) in subsection (a)—

(1) by striking out "Dependency" and inserting in lieu thereof "(1) Subject to subsection (b) of this section and clause (2) of this subsection, dependency"; and

(2) by adding, immediately following the table, the following:

"(2) Minimum rate payable.

"(A) Effective October 1, 1991, until September 30, 1992, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E-2.

"(B) Effective October 1, 1992, until September 30, 1993, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E-3.

"(C) Effective October 1, 1993, until September 30, 1994, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E-4.

"(D) Effective October 1, 1994, until September 30, 1995, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E-5.

"(E) Effective October 1, 1995, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E-6."

(b) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively; and

(c) by adding the following new subsection (b)—

"(b)(1) For awards based on deaths occurring on or after October 1, 1991, or on or after 90 days following the date prescribed by Presidential proclamation or by law as the ending date of the Persian Gulf war, whichever is later, the monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be that provided in subsection (a), provided, however, that if the pay grade of the person upon whose death entitlement is predicated exceeds E-6, then dependency and indemnity compensation shall be paid at the rate payable for the surviving spouse of a veteran whose pay grade was E-6."

TITLE III—PENSION PROVISIONS

SEC. 301. WARTIME SERVICE REQUIREMENT FOR PENSION.—(a) Section 521(j) of title 38, United States Code, is amended to read as follows: "A veteran meets the service requirement of this section if such veteran served in the active military, naval, or air service—

"(1) for one hundred eighty days or more during a period of war;

"(2) during a period of war and was discharged or released from such service for a service-connected disability; or

"(3) for an aggregate of one hundred eighty days or more in two or more separate periods

of service during more than one period of war."

(b) This section shall be effective October 1, 1991.

(c) SAVINGS CLAUSE.—In the case of a claim filed before October 1, 1991 (including a claim with regard to which eligibility has been finally determined), the Secretary of Veterans Affairs shall apply section 521(j) of title 38, United States Code, as it existed on September 30, 1991.

SEC. 302. UNIFORM RATE OF REDUCTION OF PENSION BENEFITS FOR INSTITUTIONALIZED VETERANS.—Section 3203(a)(1)(C) is amended by striking out "\$60" and inserting in lieu thereof "\$90".

SEC. 303. CONFORMING TIME LIMIT FOR SUBMISSION OF EVIDENCE IN THE IMPROVED PENSION PROGRAM.—Section 3010(h) is amended by striking out the word "calendar".

TITLE IV—MISCELLANEOUS COMPENSATION PROVISIONS

SEC. 401. EXTENSION OF PRESUMPTIVE PROVISIONS RELATING TO RADIATION EXPOSURE TO ADDITIONAL GROUPS OF EXPOSED VETERANS.—Section 312(c)(4) is amended—

(a) in subclause (A), by striking out all after "who" and inserting in lieu thereof "participated in a radiation-risk activity"; and

(b) in subclause (B)(i), by striking out the period at the end of the sentence and inserting in lieu thereof ", whether or not such device was detonated by the United States."

SEC. 402. INCREASE IN MANIFESTATION PERIOD FOR RADIATION-INDUCED LEUKEMIA.—Section 312(c)(3) is amended by striking out "such period shall be the 30-year period beginning on that date" and inserting in lieu thereof "no such limitation shall apply".

SEC. 403. PROTECTION OF SERVICE CONNECTION AND DISABILITY EVALUATIONS WHEN RATING SCHEDULE IS CHANGED.—Section 355 is amended—

(a) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(b) by designating the first three sentences as subsection (a);

(c) by designating the last sentence as subsection (b); and

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

"(c) In making a readjustment under subsection (b) of this section, the Secretary may provide that the readjustment shall not have the effect of reducing any ratings in effect on the date that the readjustment takes effect."

SEC. 404. INCREASE IN ESTATE LIMITS FOR INCOMPETENT INSTITUTIONALIZED VETERANS.—Section 3203(b)(1)(A) is amended—

(a) by striking out "\$1,500" and inserting in lieu thereof "\$4,500"; and

(b) by striking out "\$500" and inserting in lieu thereof "\$1,500".

TITLE V—REPEAL OF CERTAIN SUNSET PROVISIONS

SEC. 501. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.—Section 3117 is amended by striking out subsection (g).

SEC. 502. REDUCTION IN PENSION FOR CERTAIN VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.—Section 3203(f) is amended by striking out paragraph (6).

TITLE VI—MANILA REGIONAL OFFICE

SEC. 601. EXTENSION OF SECRETARY'S AUTHORITY TO MAINTAIN A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.—Section 230 is amended—

(a) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(b) in subsection (a), by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs"; and

(c) in subsection (b), by striking out "1991" and inserting in lieu thereof "1996".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

In general, the proposed bill's five substantive titles would—

equalize the rate of dependency and indemnity compensation for surviving spouses;
lengthen the period of wartime service required to qualify for nonservice-connected pension;

in the case of incompetent institutionalized veterans without dependents, increase the estate limits which govern the suspension of compensation payments;

extend the presumptive provisions relating to radiation exposure to veterans who were exposed while on active duty for training;

in the case of leukemia, delete the requirement that, to be presumed service connected, the disease must be manifested within 30 years of exposure to a radiation-risk activity;

make various technical changes in the compensation and pension programs;

repeal the sunset provisions in two cost-saving measures in the Omnibus Budget Reconciliation Act of 1990; and

extend, until 1996, the Secretary's authority to maintain a regional office in the Republic of the Philippines.

As explained below, all these provisions aim to increase the responsiveness of the government to the needs of our veterans and their survivors.

DEPENDENCY AND INDEMNITY EQUALIZATION

Title II of the proposed bill would equalize payments of dependency and indemnity compensation (DIC) to surviving spouses. Under current law, 38 U.S.C. § 411(a), the surviving spouse of a veteran who dies on active duty or who dies as a result of a disease or injury incurred or aggravated in service is eligible to receive DIC at a rate determined by the highest grade held by the veteran in service. VA believes it is inequitable to award gratuitous benefits based on rank when no other gratuitous veterans' benefit is so based.

Accordingly, title II would provide that (1) claims for DIC based on deaths occurring on or after October 1, 1991, or 90 days following the ending date of the Persian Gulf War, whichever is later, would be paid at a rate not to exceed that in effect for pay grade E-6, (2) effective October 1, 1991, the minimum rate payable would be that in effect for pay grade E-2, with this "floor" increasing by one grade per year, so that, by October 1, 1995, no DIC recipient would be paid at less than the E-6 rate, and (3) claimants currently receiving DIC based on a pay grade higher than E-6 would continue to receive that higher rate.

The President's FY 1992 budget assumes five-year (FY 1991-95) costs of \$230.9 million. The Administration is required by law to use these estimates to meet the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990.

Based on revised assumptions, this proposal would cost \$174.7 million over the five-

year period (FY 1991-95). These estimates were included in remarks made by the Chief Benefits Director at the June 5th hearing held by the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance. These estimates, however, will not be used for pay-as-you-go purposes because of the requirement in the Budget Enforcement Act to use the estimates contained in the President's FY 1992 Budget.

PENSION PROVISIONS

Title III of the proposal bill would make several changes to VA's program of nonservice-connected pension benefits.

Section 301 would amend section 521(j) of title 38, United States Code, to require generally 180 days of service during wartime in order to qualify for nonservice-connected pension. Under current law, a veteran must generally have served ninety consecutive days, of which only one day must have been during a period of war, in order to qualify for pension. This amendment would, we believe, ensure that the pension program is directed to our wartime veterans. Section 301 would be effective October 1, 1991, and would not affect claims filed prior to that date. Enactment of section 301 would result in estimated pay-as-you-go savings of \$36.7 million during fiscal years 1991-1995.

Section 302 would amend section 3203(a)(1)(C) of title 38, United States Code, to provide that the pension of a veteran whose pension has been reduced because of VA-provided hospitalization or domiciliary or nursing home care, and who is readmitted for such care within six months of discharge, would have a cap of \$90 per month, rather than \$60. Public Law No. 101-237 amended 38 U.S.C. § 3203(a)(1)(A) and (B) to provide that the pension of these veterans would be reduced to \$90 per month following admission. The law did not, however, amend section 3203(a)(1)(C), which continues to specify a reduction to \$60 per month following readmission within six months of a previous reduction. VA believes that the needs of veterans subject to reduction following readmission are the same as those of veterans newly admitted to VA facilities, and that both groups should have the same amount of pension available to meet those needs. Enactment of section 302 would increase direct spending by \$144,000 over the five-year period, FY 1991-1995.

Section 303 would amend section 3010(h) of title 38, United States Code, to provide that when an award of pension has been deferred or paid based on anticipated income, the effective date of entitlement or increase in pension shall be in accordance with the facts found if evidence is received before the expiration of the next year. Under current law, pensioners have until the expiration of the next calendar year to submit such evidence, resulting in wide variations in limitations periods under the Improved Pension program, which, unlike previous pension programs, does not operate on a calendar year basis. For example, a pensioner with a reporting period which happens to begin January 1 would have until December 31 of the following year to revise the income report—some 24 months—while a pensioner with a reporting period which begins December 1, who would also have until December 31 of the following year, would have but 13 months. VA believes that these inequities and inconsistencies, which the Improved Pension program was enacted to avoid, should be eliminated. VA estimates that there are no administrative or benefits costs associated with this proposal.

MISCELLANEOUS COMPENSATION PROVISIONS

Title IV of the proposed bill would make several changes to VA's program of service-connected disability compensation relating to radiation-exposed veterans, changes in the rating schedule, and incompetent institutionalized veterans.

Section 401 would amend 38 U.S.C. § 312(c)(4) to (1) change the definition of "radiation-exposed veteran" by deleting the requirement that participation in a radiation-risk activity must have taken place while the veteran was serving on active duty, and (2) clarify that onsite participation in a test involving the atmospheric detonation of a nuclear device can include the detonation of such devices by nations other than the United States.

Under current law, to be eligible for the statutory presumptions associated with exposure to ionizing radiation, a veteran must have been so exposed while on active duty. Nevertheless, there were reservists and/or National Guard personnel who participated onsite in such tests. Because such service may have been characterized as "active duty for training," see 38 U.S.C. § 101(22), such individuals would not be afforded the presumptions of service connection set forth in section 312(c). Section 401 would permit individuals who participated in a radiation-risk activity other than while serving on active duty—primarily those who participated while on active duty for training—to be considered radiation-exposed for the purposes of the Radiation-Exposed Veterans Compensation Act of 1988, codified at 38 U.S.C. § 132(c). See generally 38 U.S.C. §§ 101(2), 101(22) and 101(24).

In addition, there has been some confusion as to whether American veterans who participated onsite in the detonation of nuclear devices by nations other than the United States—such as Great Britain and France—are entitled to the presumptions of 38 U.S.C. § 312(c). While the statute itself refers only to "atmospheric testing," the formal title of Pub. L. No. 100-321 specifies United States' testing. Section 401 would clarify that onsite participation in a test involving the atmospheric detonation of a nuclear device, even if the device were detonated by a nation other than the United States, would be considered a "radiation-risk activity."

Enactment of section 401 would increase direct spending by \$400,000 over the five-year period, FY 1991-1995.

Section 402 would amend 38 U.S.C. § 312(c)(3), relating to diseases associated with participation in tests of nuclear weapons, to provide that leukemia arising at any time after service will be considered associated with a radiation-risk activity. Current law provides a presumption of service connection for certain diseases which become manifest to a degree of 10 percent or more within 40 years of exposure to a "radiation-risk activity." 38 U.S.C. § 312(c). In the case of leukemia, the condition must have become manifest within 30 years.

A claimant may also seek disability compensation for the effects of radiation exposure under regulations promulgated under the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98-542 (1985). See generally 38 C.F.R. § 3.311b. Until recently, those regulations provided that, in order for leukemia to be considered radiogenic, it had to become manifest within 30 years of exposure, a limitation which paralleled the statutory requirement. However, the Veterans' Advisory Committee on Environmental Hazards, a federal advisory group established pursuant to Pub. L. No. 98-542,

has recommended, based on the most recent information, that the time restriction for the manifestation of leukemia be deleted. Based on that recommendation, VA regulations have been so amended. 38 CFR. § 3.31b(b)(4)(ii). Although the standards in the regulations differ somewhat from those in the statute, we believe that fairness to veterans mandates that the time requirement similarly be removed from 38 U.S.C. § 312(c)(3) with respect to leukemia.

Enactment of section 402 would increase direct spending by \$400,000 over the five-year period, FY 1991-1995.

Section 403 would amend section 355 of title 38, United States Code, to provide that no readjustment of the schedule for rating disabilities (currently found in part 4 of title 38, Code of Federal Regulations) shall result in a reduction of individual evaluations or severance of service connection in the absence of a demonstrable improvement in physical or mental condition or a finding of clear and unmistakable error.

Current law does provide some protection for disability ratings. Thus, 38 U.S.C. § 359 provides that service connection in force for ten or more years shall not be severed except upon a showing the original grant was based on fraud. In addition, 38 U.S.C. § 110 provides that if a disability has been rated at or above an evaluation for twenty or more years, the evaluation will not be reduced unless based on fraud.

Changes to the rating schedule have potential for severance of service connection or reduced evaluations in those cases where the service connection or evaluation has not been in effect for the periods required. For example, the reclassification of the manifestations of simple schizophrenia from a psychosis to a personality disorder precludes a grant of service connection for the condition. Similarly, the evaluation for hearing loss has been substantially changed based on new testing methods. Recent General Counsel opinions have held that VA does not have the authority to protect service connection or the evaluation granted under prior provisions of the rating schedule, unless the applicable time requirements in 38 U.S.C. §§ 359 and 110 have been met.

As you know, VA is currently undertaking a review of the rating schedule, and changes in the descriptions of the various levels of disability can be expected. It is believed that where schedule criteria are changed, service connection should not be severed and evaluations should not be reduced in the absence of clear error or a change in the severity of the disability. In this regard, it is observed that in 1946, with the advent of the current Schedule for Rating Disabilities, Congress expressly provided for the protection of compensation awards granted under the 1925 Rating Schedule. Congress should accord similar protection to awards granted under the current Rating Schedule.

VA estimates that there would be no administrative or benefits costs associated with section 403.

Section 404 would amend 38 U.S.C. § 3203(b)(1)(A) to raise the estate limits which apply to certain incompetent institutionalized veterans. Under current law, where an incompetent veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care at government expense, payments of VA pension or compensation or of emergency officers' retirement pay are suspended when the veteran's estate equals or exceeds \$1,500. The suspension continues until the estate is reduced to \$500. This amendment would raise those limits to \$4,500 and \$1,500, respectively.

The "\$1,500 rule," as it has come to be known, was enacted to prevent the accumulation of large estates of Federal benefits which would be inherited by persons who had no original entitlement to those benefits during the veteran's lifetime. The current limits are no longer realistic in terms of today's economics or administrative processing. When it was enacted in 1933, the \$1,500 estate limitation represented the accumulation of a year or more of benefits. At today's 100-percent service-connected rate, the limit represents only about one month's benefits.

Because of the types of disabilities that result in incompetency ratings, many veterans who are potentially subject to the \$1,500 rule are in and out of hospitals and other institutions on a regular basis. Their stays may last a few days or several weeks. Each stay must be reported to the VA regional office of jurisdiction so that a determination can be made by an adjudicator as to whether the veteran's award should be adjusted. The current value of the veteran's estate must be verified by an estate analyst through review of available records or by direct contact with the veteran's fiduciary. In many instances notification that the veteran was institutionalized and notice of verification of the size of the estate may not reach the adjudicator for award adjustment in a timely fashion. Since the payment of one month's benefits at the 100-percent rate will in all likelihood put the veteran over the current income limit, award action will be required to suspend further payments while the veteran is institutionalized. By the time that notification is received and award action taken, more than one month's benefits will have been paid and an overpayment created.

If the veteran continues to be institutionalized, the debt must be collected from the estate. On occasion, a fiduciary will challenge in court the propriety of the debt. Even if VA prevails in court, an administrative cost to the Department and the veteran is incurred. If the veteran is released from institutionalization and the award is reinstated, the debt is collected from the running award. However, in many areas of the country, particularly those where the cost of living is high, it may be difficult for the veteran to reenter the community with limited or no assets as a result of VA's attempt to collect the debt from either the estate or the running award. Further, in many cases, awards are alternately suspended and resumed every other month, compounding the volume of transactions and the potential for overpayments.

Elevating the estate limitation to \$4,500 will create an administrative buffer which will decrease the number of award transactions, provide more timely administrative processing thereby decreasing the number of overpayment actions, provide for a reasonable economic base to facilitate the veteran's reentry to the community after institutionalization, and still keep at a relatively low level the value of the estate subject to distribution to remote heirs.

While it would be possible to employ an adjusted benefit rate to deal with this problem—as is done in the case of certain veterans without dependents who are in nursing homes or domiciliaries for more than three months—VA has concluded that such an approach would not be appropriate in this instance. The purpose of the \$1,500 rule is to prevent the accumulation of estates composed of Federal benefits that potentially will be inherited by persons who had no original entitlement to those benefits. The estate limitation has nothing to do with the

financial needs of the veteran, although it is assumed that the financial needs of a government-institutionalized, incompetent veteran without dependents are greatly reduced. Merely reducing the rate at which funds accumulate would still permit the accumulation of sizable estates in cases of lengthy institutionalization.

Based upon a recent sampling of ten percent of VA's regional offices, we estimate that each month approximately 588 incompetent veterans have their benefits suspended or resumed as a result of the \$1,500 rule. Many of these actions result in overpayments and collection actions. We believe that raising the estate-valuation limitations as proposed in section 404 will significantly reduce the number of transactions, overpayments, and collection actions currently attributable to the \$1,500 rule.

Enactment of section 404 would increase direct spending by \$2.1 million over the five-year period, FY 1991-1995.

REPEAL OF CERTAIN SUNSET PROVISIONS

Title V would repeal two "sunset" provisions attached to measures in the Omnibus Budget Reconciliation Act of 1990 designed to ensure that benefits paid to veterans and survivors were directed to those in need and entitled.

Section 501. Section 8051 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, amended chapter 53 of title 38, United States Code, by adding a new section 3117 which, in general, granted the Secretary the authority to obtain third-party and self-employment tax information from the Secretary of the Treasury and the Secretary of Health and Human Services for purposes of determining eligibility for VA needs-based pension and parents' dependency and indemnity compensation and VA health-care services based on income status. In addition, 38 U.S.C. § 3117 grants the Secretary the authority to obtain from the Secretary of the Treasury wage and self-employment information for purposes of determining eligibility for compensation paid (pursuant to 38 C.F.R. § 4.16) at the total-disability rating level based on an individual determination of unemployment. Subsection (g) of 38 U.S.C. § 3117 provides that the Secretary's authority expires September 30, 1992. Section 501 of the proposed bill would delete subsection (g). Enactment of section 501 would result in estimated pay-as-you-go savings of \$528.4 million during FYs 1991-1995.

Section 502. Section 8003 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, amended section 3203 of title 38, United States Code, by adding a new subsection (f), which generally limits monthly pension payments to \$90 for Medicaid-eligible recipients of VA pension who have no dependents and who are in nursing homes participating in Medicaid. Paragraph (6) of 38 U.S.C. § 3203(f) provides that subsection (f) expires on September 30, 1992. Section 603 of the proposed bill would delete paragraph (6) from 38 U.S.C. § 3203(f). Enactment of section 502 would result in estimated pay-as-you-go savings of \$361 million during FYs 1991-1995.

TITLE VI. MANILA REGIONAL OFFICE

Section 601 would amend section 230 of title 38, United States Code, to extend, through September 30, 1996, the Secretary's authority to maintain and operate a regional office in the Republic of the Philippines. Under current law, this authority expires September 30, 1991. VA administers programs providing compensation, pension, and education benefits through a regional office in Manila, to Filipinos who were in or attached

to the United States Armed Forces during World War II. During fiscal year 1989, more than \$123 million in benefits were paid through the Manila regional office. VA estimates that this proposal would result in administrative costs of \$2.3 million in fiscal year 1992, with a five-year cost (FY 1992-96) of \$12.5 million.

The effect of this draft bill on the deficit is:

Title	Fiscal years—					1991-95
	1991	1992	1993	1994	1995	
Title I						
Title II	-15	14	103.3	128.6	230.9	
Title III	-1.6	-6.7	-11.6	-16.8	-36.7	
Title IV	.7	.7	.7	.8	2.9	
Title V			-279.9	-312	-297.5	-889.4
Title VI						
Total	-15.9	-271.9	-219.6	-184.9	-692.3	

The "Veterans and Survivors' Compensation and Pension Improvement Act of 1991," which would result in a net decrease in spending of \$692.3 million over the five-year period of FYs 1991-1995, includes provisions which were included in the President's FY 1992 Budget and others which were not reflected in the President's FY 1992 Budget.

The provisions included in the President's FY 1992 Budget would decrease direct spending by \$695.6 million over the five-year period of FYs 1991-1995. However, sections 302, 401, 402, and 404 of the draft bill would increase direct spending over that same period by \$2.9 million. This amount is not reflected in the President's Budget and, therefore, must be offset to avoid a sequester.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. The FY 1992 Budget-related provisions of "Veterans and Survivors' Compensation and Pension Improvement Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1992 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, the FY 1992 Budget-related provisions contained in this bill should be considered in conjunction with the other proposals in the FY 1992 Budget.

As noted earlier, sections 302, 401, 402, and 404 are not reflected in the President's FY 1992 Budget; therefore, they must be offset by other Administration legislative proposals not reflected in the President's FY 1992 Budget. Accordingly, these sections of the bill should be considered in conjunction with VA's proposed legislation entitled "Veterans' Loan Asset Sale Act of 1991," which is not reflected in the President's FY 1992 Budget. This proposed legislation contains sufficient savings to offset the costs of sections 302, 401, 402, and 404.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.*

By Mr. CRANSTON (by request):

S. 1519. A bill to amend title 10 and title 38, United States Code, to make

certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1519, the proposed Veterans' Educational Assistance Improvements Act of 1991. The Secretary of Veterans Affairs submitted to this legislation by letter dated July 2, 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 July 2, 1991, transmittal letter and enclosed section-by-section analysis.

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

S. 1519

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

SECTION 1. SHORT TITLE: REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This may be cited as the "Veterans' Educational Assistance Improvements Act of 1991."

(b) REFERENCES TO TITLE 38.—Except as otherwise may be specifically provided, whenever in the Act as amendment or repeal is expressed in terms of an amendment to, or repeal of, 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.

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

TABLE OF CONTENTS

- Sec. 1. Short title; references to title 38, United States Code; table of contents.
- Sec. 2. Provision for Permanent Program of Trial Work Periods and Vocational Rehabilitation for Certain Veterans With Total Disability Ratings.
- Sec. 3. Provision for Permanent Program of Vocational Training for Certain Pension Recipients.
- Sec. 4. Limitation of Entitlement to a Program of Independent Living Services to Veterans Having a Serious Employment Handicap.
- Sec. 5. Equalization of Montgomery GI Bill Benefits for the Same Amount of Active Duty Service.
- Sec. 6. Elimination of Advance Payment of Work-Study Allowance.
- Sec. 7. Accredited Course Approval Requirements.

- Sec. 8. Bar to Veterans' Educational Assistance for Course Enrollment Under the Government Employees Training Act.
- Sec. 9. Repeal of the Authority for VA to Make Education Loans.
- Sec. 10. Determination of Rates for Independent Study.
- Sec. 11. Technical Amendment Requirement that Training Establishments Certify Hours Worked Under the Montgomery GI Bill Selected Reserve Program.

SEC. 2. PROVISION FOR PERMANENT PROGRAM OF TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION FOR CERTAIN VETERANS WITH TOTAL DISABILITY RATINGS.

(a) IN GENERAL.—(1) Section 363(a) is amended—

(A) In paragraph (1), by—
(i) striking out "during the" and inserting in lieu thereof "during and after the initial"; and

(ii) striking out "a period of 12 consecutive months" and inserting in lieu thereof "the period described in paragraph (3) of this subsection";

(B) In paragraph (2)(B), by striking out "program period" and inserting in lieu thereof "initial program period"; and

(C) By adding at the end the following new paragraph:

"(3) The period referred to in paragraph (1) of this subsection for maintaining an occupation shall be 12 consecutive months in the case of a qualified veteran who begins such occupation during the initial program period or 6 consecutive months if the veteran begins his or her occupation after the initial program period."

(2) Section 363(b) is amended by striking out "During the" and inserting in lieu thereof "During and after the initial".

(3) Section 363(c)(1) is amended by striking out "In the case" and all that follows through "providing—" and inserting in lieu thereof the following:

"The Secretary shall provide to each qualified veteran awarded a rating of total disability described in subsection (a)(2)(A) of this section, at the time notice of each award is given to the veteran, a statement containing—"

(b) CLERICAL AMENDMENT.—(1) The table of sections at the beginning of chapter 11 is amended by striking out "363. Temporary Program" and inserting in lieu thereof "363. Program".

(2) The catch line at the beginning of section 363 is amended by striking out "Temporary program" and inserting in lieu thereof "Program".

SEC. 3. PROVISION FOR PERMANENT PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) IN GENERAL.—Section 524 is amended—
(1) By amending subsection (a) to read as follows:

"(a) A veteran awarded pension may apply for vocational training under this section and, if the Secretary makes a preliminary finding on the basis of information in the application and otherwise on file with the Department of Veterans Affairs that, with the assistance of a vocational training program under subsection (b) of this section, the veteran has a good potential for achieving employment, the Secretary shall provide the veteran with an evaluation to determine whether the veteran's achievement of a vocational goal is reasonably feasible. Any such evaluation shall include a personal interview by a Department of Veterans Affairs employee trained in vocational counseling un-

less, in the Secretary's judgment, such an evaluation is not feasible or not necessary to make the determination required by this subsection.";

(2) In subsection (b), by striking out paragraph (4); and

(3) By amending subsection (c) to read as follows:

"(c) Notwithstanding section 525 of this title, a veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the health-care eligibility protection provisions of section 525 without regard to when the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b)(1) of that section)."

(b) CONFORMING AMENDMENTS.—Chapter 15 of such title is amended—

(1) In the table of sections of such chapter, by striking out "524. Temporary program" and inserting in lieu thereof "524. Program";

(2) In the catch line at the beginning of section 524, by striking out "Temporary program" and inserting in lieu thereof "Program"; and

(3) In section 525(a) by—

(A) Inserting "(except as provided in section 524(c) of this title)" after "program period"; and

(B) Striking out "such chapter" and inserting in lieu thereof "chapter 17 of this title".

SEC. 4. LIMITATION OF ENTITLEMENT TO A PROGRAM OF INDEPENDENT LIVING SERVICES TO VETERANS HAVING A SERIOUS EMPLOYMENT HANDICAP.

(a) IN GENERAL.—Section 1509 is amended by striking out "under section 1506(d)" and all that follows through "a veteran" and inserting in lieu thereof "that a veteran has a serious employment handicap and, under section 1506(d) of this title, that the achievement of a vocational goal by the veteran".

(b) EFFECTIVE DATE.—The amendment made by section (a) shall be effective with respect to persons originally applying for benefits under chapter 31 of title 38, United States Code, on or after the effective date of this Act.

SEC. 5. EQUALIZATION OF MONTGOMERY GI BILL BENEFITS FOR THE SAME AMOUNT OF ACTIVE DUTY SERVICE.

(a) IN GENERAL.—Section 1415(b) is amended by striking out "in the case" and all that follows through "paid—" and inserting in lieu thereof "an individual (other than an individual described in section 1411(a)(1)(A)(i)(II) of this title, or who would be so described but for being discharged or released from active duty as described in section 1411(a)(1)(A)(ii) of this title) who is entitled to an educational assistance allowance under section 1411 or 1418 of this title and whose initial obligated period of active duty is two years, shall be paid a basic educational assistance allowance under this chapter—"

(b) CONFORMING AMENDMENTS.—(1) Section 1411(a)(1)(A)(i) is amended by striking out "or (II)" and all that follows through "Armed Forces" and inserting in lieu thereof "(II) serves, as the individual's initial obligated period of active duty, two years of continuous active duty in the Armed Forces and, without a break in service after completion of such service and pursuant to a reenlistment or extension of such initial enlistment, serves for at least one additional year of continuous active duty in the Armed Forces; or (III) in the case of an individual who initially serves less than three years of continuous active duty without a break, serves an initial obligated period of two years of continuous active duty in the Armed Forces".

(2) Section 1413(a)(2) is amended—

(A) by striking out "initial obligated period of active duty" and inserting in lieu thereof "active duty service described in section 1411(a)(1)(A)(i) of this title; and

(B) by striking out "after June 30, 1985." and inserting in lieu thereof "as part of such individual's active duty period described in section 1411(a)(1)(B)(i) of this title.".

(3) Section 1416(a)(4) is amended by inserting "(II), or" after "or".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of July 1, 1985.

SEC. 6. ELIMINATION OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 1685(a) is amended by striking out the last sentence.

SEC. 7. ACCREDITED COURSE APPROVAL REQUIREMENTS.

(a) ELEMENTARY AND SECONDARY SCHOOLS.—Section 1775(a) is amended, in the third sentence, by inserting ", other than an elementary or secondary school," after "institution".

(b) ATTENDANCE STANDARDS.—Section 1775(a) is amended by inserting in the last sentence "the institution's attendance standards (if it has and enforces such standards) and" after "minimum".

SEC. 8. BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT.

Section 1781(a) is amended by striking out "who is on active duty" and all that follows to the period and inserting in lieu thereof "for pursuit while on active duty of a course of education or training paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or (2) for pursuit of a course of education or training paid for under chapter 41 of title 5".

SEC. 9. REPEAL OF EDUCATION LOAN PROGRAM; TECHNICAL AMENDMENTS.

(a) IN GENERAL.—(1) Section 1662(a) is amended by—

(A) in paragraph (1), by striking out "(4)" and inserting in lieu thereof "(2)";

(B) striking out paragraphs (2) and (3) in their entirety; and

(C) redesignating paragraph (4) as paragraph (2).

(2) Section 1712 is amended by—

(A) striking out subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(3) Subchapter III of chapter 326 is repealed in its entirety.

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 32 is amended by striking out "1631. Entitlement; loan eligibility." and inserting in lieu thereof "1631. Entitlement; payment of benefits."

(2) The catch line at the beginning of section 1631 is amended by striking out "loan eligibility" and inserting in lieu thereof "payment of benefits".

(3) The table of sections at the beginning of chapter 36 is amended by striking out:

"Subchapter III—Education Loans

"1798. Eligibility for loans; amount and conditions of loans; interest rate on loans.

"1799. Revolving Fund; insurance."

(c) SAVINGS PROVISION.—Notwithstanding the provisions of subsection (a)(3) of this section—

(1) The Secretary is authorized, with respect to education loans made prior to the effective date of this Act, to continue to col-

lect loan principal and interest due, and to declare and recover (or discharge) overpayments, pursuant to the provisions of section 1798, as such section was in effect on the day before the effective date of this Act; and

(2) the Department of Veterans Affairs Education Loan Fund, established by former section 1799(a), shall continue to be maintained in the Treasury of the United States for deposit of the collections referred to in clause (1) of this subsection, and the Secretary is authorized to transfer all or any part of the monies contained in such Fund to the appropriation for readjustment benefits, from time to time, to be used for the purposes of that appropriation.

SEC. 10. DETERMINATION OF RATES FOR INDEPENDENT STUDY.

(a) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE.—Section 1631 is amended by adding at the end the following new subsection:

"(g)(1) The amount of the monthly benefit payment to an individual enrolled in a course leading to a standard college degree to be pursued exclusively by independent study shall be 25 percent of the monthly benefit otherwise payable to such individual computed on the basis of the formula provided in subsection (a)(2) of this section. For each month of such payment, the individual's entitlement under this chapter shall be charged at the rate of 25 percent of a month.

"(2) In any case in which an individual pursues independent study in combination with resident training, the amount of the monthly benefit payment shall be based on the total combined training time, as determined by the Secretary. In no event, however, shall the applicable measure of the independent study pursuit used in calculating such total combined training time exceed the equivalent of quarter-time training."

(b) MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.—Section 2131 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "(g)" and inserting in lieu thereof "(h)"; and

(2) by adding at the end thereof the following new subsection:

"(h) For purposes of determining the amount of the monthly educational assistance allowance payable under subsection (b) of this section to a person enrolled in an independent study program leading to a standard college degree, the Secretary of Veterans Affairs shall—

"(1) Consider pursuit of such program if entirely by independent study as quarter-time pursuit; and

"(2) in any case in which a person pursues independent study in combination with resident training, determine the rate of pursuit on the basis of the total combined training time, except that in no event shall the applicable measure of the independent study pursuit used in calculating such total combined training time exceed the equivalent of quarter-time training."

SEC. 11. TECHNICAL AMENDMENT REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS WORKED UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c)".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

HON. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance

programs for veterans and eligible persons, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Educational Assistance Improvements Act of 1991," would make a number of amendments to the education and vocational rehabilitation programs administered by the Department of Veterans Affairs, to facilitate the administration of the programs and make certain provisions more equitable.

The major provisions of the draft bill would amend and make permanent vocational rehabilitation and training programs for certain veterans, limit entitlement to a program of independent living services to veterans with serious employment handicaps, equalize Montgomery GI Bill benefits for the same amount of active duty served, deny VA educational assistance benefits to individuals taking courses paid for by the Government Employees Training Act, and repeal the authority for VA to make education loans.

The effect of this draft bill on the deficit is:

[Fiscal years, in millions of dollars]						
	1991	1992	1993	1994	1995	1991-95
Outlays		7	1.3	1.4	1.6	5.0
Receipts						

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. Since the "Veterans' Educational Assistance Improvements Act of 1991" would increase direct spending, it must be offset.

However, this bill should be considered in conjunction with the "Veterans' Loan Asset Sale Act of 1991." Together, they meet the OBRA pay-as-you-go requirement.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress and its enactment would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1

Subsection (a) provides that the draft bill may be cited as the "Veterans' Educational Assistance Improvements Act of 1991."

Subsection (b) provides that, unless otherwise specified, whenever in the draft bill an amendment or repeal is expressed in terms of an amendment to, or repeal of, 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.

Subsection (c) sets forth the table of contents for the draft bill.

Section 2

This section would amend section 363 of title 38 to modify and make permanent the current temporary program of trial work periods and vocational rehabilitation for certain veterans with total disability ratings authorized by that section.

This temporary program was established in 1984 and initially ran from February 1, 1985, through January 31, 1989. It was intended as a test to motivate service-disabled veterans awarded a total rating based on Individual

Unemployability (IU) to either participate in a vocational rehabilitation program, or utilize existing skills to secure employment.

As motivation, the program required that a veteran awarded an IU rating during the program period had to undergo an evaluation to determine rehabilitation potential or risk termination of the award. If achievement of a vocational goal was found reasonably feasible, an individualized written rehabilitation plan was developed for and with the veteran.

While failure to cooperate in or complete the plan could result in reconsideration of the veteran's continued eligibility for the IU rating based on evaluation findings, successful program pursuit would protect the IU rating unless and until the veteran maintained substantially gainful employment for 12 consecutive months. (Veterans awarded the IU rating before commencement of the program period could request an evaluation and voluntarily participate in a rehabilitation program.)

Public Law 100-687 (Nov. 18, 1988) extended the program through January 31, 1992, and made it completely voluntary after study results showed that those whose participation was voluntary displayed the greatest motivation and the best outcomes. It maintained the trial work period feature of rating protection. The amendments made by this section, in addition to making the section 363 program permanent, would make a programmatic adjustment, reducing the trial work protection from 12 to 6 consecutive months of substantially gainful employment. Conceptually, the trial work period feature is consistent with current rehabilitation philosophy and practice, and clearly is an essential element of the program. However, the existing provision is excessive in terms of the extent of protection needed for program purposes.

It is appropriate that this program, which has been shown to have positive results, should, with the improvement mentioned, now be made permanent.

Section 3

This section would amend 38 U.S.C. §524(a)(4) to delete the termination date for the vocational training program for certain veterans awarded VA pension benefits, as well as the program's requirement that veterans under age 45 participate in an evaluation of vocational potential. Further, this section would provide that a personal interview by a VA counselor is not required as part of the veteran's evaluation when such an interview is not practical or necessary for the feasibility determination. Last, the section would maintain, as a permanent feature of the program, protection of health-care eligibility for program participants whose pension is terminated by reason of income from work or training as described in 38 U.S.C. §525.

Congress established this temporary program of vocational training for certain new pension recipients in 1984. The temporary program initially ran from February 1, 1985, through January 31, 1989, and subsequently was extended through January 31, 1992. Under current law, veterans below age 45 who are awarded pensions during the program period beginning February 1, 1985, must participate in an evaluation of their vocational potential unless VA determines the veteran is unable to do so for reasons beyond his or her control. If the evaluation discloses that it is reasonably feasible for the veteran to achieve a vocational goal, the veteran is offered a program of vocational rehabilitation as provided under chapter 31, with certain restrictions.

The section 524 temporary program clearly has been beneficial. VA finds that approximately one-third of the veterans for whom an evaluation has been provided are capable of pursuing a vocational program and becoming suitably employed. Further, the proportion of veterans with earnings is an estimated four times higher among veterans who pursue a vocational training program under VA auspices than for veterans who are otherwise capable but do not elect to pursue such a program.

VA also has found, however, that providing required evaluations for veterans under age 45 imposes a major administrative burden without commensurate benefit to the veteran or the Government. In fact, a substantially higher proportion of veterans who can participate in the program on a voluntary basis do so in comparison with veterans for whom participation in an evaluation is required. Reducing the administrative burden by eliminating the mandatory requirement for evaluation will improve program effectiveness and conserve staff time without impairing a veteran's access to program services. VA does not believe that continuation of the vocational training program is warranted unless this change is made.

Additionally, while the provision affording each veteran the opportunity for a personal interview with a VA employee trained in vocational counseling is retained, an exclusion is made for cases where it is apparent that such an interview would not be productive or where the information plainly shows that achievement of a vocational goal is not reasonably feasible.

Finally, the health-care eligibility protection feature is a valuable incentive to program participation and its retention is in the veteran's and the Government's interest.

Section 4

This section would amend section 1509 to require that a veteran be found to have a serious employment handicap to qualify for a program of independent living services.

Under existing law, a service-disabled veteran who is entitled to disability compensation may be provided a program of independent living services if he or she has an employment handicap and is currently unable to prepare for, obtain, or maintain suitable employment. An employment handicap is defined as an impairment of the veteran's ability to secure and maintain suitable employment. A serious employment handicap is defined as a significant impairment of the veteran's ability to prepare for, obtain, or maintain suitable employment.

Programs of independent living services are among the most complex, difficult, and costly rehabilitation programs that VA furnishes to eligible service-disabled veterans. Yet, unlike other types of complex and costly programs of services, such as extended evaluation, a finding of serious employment handicap is not a precondition to providing independent living services.

Veterans for whom a program of independent living services is authorized generally have a serious employment handicap. However, it is possible for a veteran who does not have a serious employment handicap to be provided a program of independent living services. This is most likely to occur when the veteran's nonservice-connected disabilities are the main reason for the veteran's inability to pursue a vocational rehabilitation program. The effects of the service-connected disability on the veteran's ability to train for and secure suitable employment, while meeting the requirement for a finding of employment handicap, do not meet re-

quirements for a finding of serious employment handicap.

We believe this proposed amendment will help assure greater uniformity in the criteria for providing seriously disabled veterans programs of special services.

Section 5

This section would amend the Montgomery GI Bill Active Duty program, in section 1415, to expand the category of persons eligible for the \$300 monthly rate of basic educational assistance allowance to include persons who initially serve a continuous period of at least 3 years of active duty, without a break in service, even though they were initially obligated to serve less than 3 years of active duty. The chapter 30 entitlement categories in section 1411(a)(1)(A)(i) would be expanded, accordingly.

Under section 1415, the chapter 30 basic monthly benefit rate is determined by the veteran's initial period of obligated service. An initial obligated active duty period of 3 or more years will entitle an eligible participant to \$300 a month of basic educational assistance allowance for full-time training, while an initial 2-year enlistment will entitle a participant to \$250 per month. Thus, someone who enlists for 2 years and, without a break in service, reenlists or extends his or her enlistment for an additional year still is entitled only to the \$250 monthly rate based on the initial 2-year enlistment.

This amendment would recognize the initial 3 years of continuous active duty service described in the above example as comparable to serving a 3-year initial obligated period of active duty for purposes of entitlement to the \$300 rate of basic chapter 30 allowance. This is equitable and consistent with program purposes as it would encourage servicepersons to extend their tours of active duty, if requested, and increase reenlistments.

Section 6

This section would amend section 1685 to eliminate the advance payment requirement of the current work-study allowance and, instead, provide for the payment of the work-study allowance after services have been performed.

The current work-study program statute requires that an amount equal to 40 percent of the total amount agreed to be paid under the work-study agreement must be paid in advance of the performance of any service. The remaining work-study allowance is paid after the services are performed. Enactment of this section would virtually eliminate accounts receivable in VA's work-study program.

Section 7

This section contains two amendments to the section 1775 criteria for approval of accredited courses by a State approving agency (SAA).

First, subsection (a) of this section would exclude elementary and secondary schools from the section 1775(a) requirement that, in making application for approval of a school course, the educational institution must furnish copies of its catalog to the SAA.

Elementary schools and most high schools, other than those with evening divisions, do not publish catalogs. Thus, such institutions which do not choose to publish a catalog for submission in compliance with the statutory requirements are denied SAA approval for their courses. The deletion of this requirement would remove an inequitable and unreasonable burden for these schools.

Second, subsection (b) of this section would add the requirement that all accred-

ited schools that have and enforce standards of attendance must submit such standards to the SAA for approval. Public Law 101-237 amended the law to require that VA terminate the benefits of anyone who is not meeting the attendance requirements at his or her school. In view of this, it is reasonable to require that an accredited school publish its standards of attendance (as currently required for school standards of progress or conduct) in the school catalog or bulletin submitted to the SAA in seeking course approval. It should be emphasized that no accredited school would be required by this amendment to adopt attendance standards, however.

Section 8

Section 8 would amend section 1781(a)(2) to bar VA payment of education benefits to an individual for training paid for under the Government Employees Training Act (GETA), regardless of whether that individual's hours of training are distinct from or overlap his or her regular duty hours of employment.

Currently, section 1781(a)(2) provides that no educational assistance allowance under chapter 30, 34, 35, or 36 of title 38 or chapter 106 of title 10, and no subsistence allowance under chapter 31 of title 38 may be paid to an individual who is attending a course of education or training paid for under the GETA and whose full salary is being paid while so training. A recent precedent opinion by VA's General Counsel has construed that section as permitting payment of VA educational assistance to a veteran training under the GETA if the training was received during periods of the day other than those for which the individual's salary is paid.

This amendment would clarify that payment of VA education benefits to an individual for pursuing a course of education also paid for by the Government under the GETA constitutes a duplication of benefits, even where the individual's hours of training are different from those daily work hours for which the person receives a full Federal salary, thus, eliminating this overlapping expenditure of Federal funds.

Section 9

This section would repeal various provisions of title 38 which authorize VA to grant education loans to eligible veterans and other eligible persons, as well as make clerical amendments deleting all references to such loans.

Under chapter 36, subchapter III, VA is permitted to make direct education loans to veterans and eligible persons for continuing their full-time training in the first 2 years after expiration of their delimiting period and for flight training reimbursed at the 60 percent level.

The VA education loan program has experienced excessively high default rates resulting in huge overpayments. Consequently, in recent years, Congress has acted to strictly limit eligibility for these loans. For example, the Omnibus Reconciliation Act of 1981 drastically reduced the number of education loans which could be made. It is now recommended that the final step be taken to remove all authority of VA to make education loans to reduce a source of continuing overpayments.

This section includes a savings provision so that, notwithstanding the proposal's repeal of the present education loan authority contained in title 38, the Secretary could continue to collect the principal and interest on those loans which are outstanding, together with any overpayments which are es-

tablished under the program. It further would provide that the "Department of Veterans Affairs Education Loan Fund," established by section 1799(a) of title 38, would continue to be maintained in the United States Treasury. This would allow continued use of the education loan program's existing accounting system, with no cost to the Government, as opposed to the establishment of a new accounting structure within the readjustment benefits appropriation. The Secretary would be authorized to periodically transfer amounts from the Fund to the readjustment benefits account to be used for the purpose of the latter.

Section 10

This section would amend chapter 32 of title 38 and chapter 106 of title 10 to clarify the rates payable for independent study pursuit under those chapters. More specifically, payment would be based on the measurement of independent study as quarter-time training when pursued alone, and when pursued with resident training, would be based on the combined training time, as determined by the Secretary, but with the independent study component limited to the equivalent of a quarter-time measure.

Currently, section 2131 of title 10 sets out the educational assistance rates payable for institutional training under chapter 106 but does not state the rate payable for independent study. Chapter 32 provisions similarly lack such express guidance. Although there is general authority for VA to prescribe by regulation the measurement of and rates payable for such pursuit under those chapters, and while any such administrative action taken consistent with the rate of payment specifically authorized for independent study under other VA education benefit programs (i.e., chapter 34 and 35) would be reasonable, it remains desirable, nevertheless, to provide explicit, specific guidance in this area. Accordingly, this section provides such guidance.

Section 11

This section would amend 10 U.S.C. §2136(b) to reinstate the reference to section 1780(c) of title 38 in administering the Montgomery GI Bill Selected Reserve program. A recent amendment to chapter 106 of title 10 deleted reference to section 1780(c), governing certification of enrollment in and pursuit of a program of apprenticeship or other on-the-job training.

Public Law 101-237 amended chapter 106 to require a reduction in a reservist's apprenticeship or other on-the-job training benefits whenever he or she does not work 120 hours. However, no express legal authority requires the training establishment to certify how many hours the reservist worked. This amendment would rectify the inadvertent removal of this necessary administrative section.

By Mr. BENTSEN (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. BREAUX, and Mr. DURENBERGER):

S. 1520. A bill to amend title XVIII of the Social Security Act to make certain changes with respect to extended care and home health services, and to provide for a waiver of certain Medicaid requirements to conduct a demonstration project with respect to adult day care services, and for other purposes; to the Committee on Finance.

MEDICARE AND MEDICAID CHRONIC CARE
AMENDMENTS ACT

• Mr. BENTSEN. Mr. President, the bill I am introducing today, along with Senators BRADLEY, CHAFEE, BREAU, and DURENBERGER, would make modest, but important, changes to the home health and skilled nursing facility services available under the Medicare Program. It would also establish a demonstration project under the Medicaid Program, designed to encourage the development of adult day care facilities.

Last year, I introduced legislation to rectify a serious problem with the coinsurance structure of the Medicare skilled nursing facility [SNF] benefit. We were unable to enact this reform within the context of the budget agreement. But I continue to believe it is important to address this inequity.

When the Medicare Program first began, beneficiaries paid a daily SNF coinsurance amount of \$5 beginning on the 21st day of a nursing home stay. That amount has increased rapidly over the past 25 years. In 1991, beneficiaries are paying \$78.50 a day. On average, this contribution covers more than 50 percent of the cost of a nursing home day. In some cases, the \$78.50 actually exceeds the cost of a day of care in a SNF. When this occurs, it is less costly for beneficiaries to give up their Medicare benefits and directly pay the entire nursing home cost themselves. CBO estimates that this happens in about 20,000 cases each year, or 5 percent of Medicare nursing home stays nationally. But it varies by geographic region. For example, in Alabama, Kentucky, Mississippi, and Tennessee, over 14 percent of the patients are better off paying the whole cost of the nursing home day than the \$78.50 Medicare coinsurance rate.

The problem results from the link between the coinsurance rate for nursing home stays and the inpatient hospital deductible. The coinsurance rate is set to equal one-eighth of the hospital deductible. And the hospital deductible is computed to represent the average cost of a hospital day. Hospital costs have grown much faster than nursing home costs over the years, and the result is that SNF coinsurance is now way out of proportion to the cost of nursing home care.

S. 1520 would break the link between the hospital deductible and the SNF coinsurance rate and lower the coinsurance amount to \$65 beginning in 1992. The \$65 coinsurance amount would stay in place over time until the coinsurance rate was reduced to 20 percent. This would happen gradually over a number of years.

I would have liked to propose moving immediately to a 20 percent coinsurance rate to be consistent with other coinsurance requirements in the Medicare Program, but it is simply not feasible given our difficult budgetary situ-

ation. We can, however, take the modest steps proposed in this bill to ensure that beneficiaries are not required to contribute an excessive amount toward the cost of their nursing home stay.

Medicare only covers post-hospital nursing home stays, raising concern that some beneficiaries may be unnecessarily admitted to the hospital for a costly inpatient stay solely for the purpose of qualifying for the extended care benefit. S. 1520 would require the Secretary of Health and Human Services to study and report within a year on the impact of eliminating the 3-day prior stay requirement. The report would include estimates of the budgetary implications of eliminating the requirement on the Medicare and Medicaid Programs, on beneficiary out-of-pocket spending, and also an assessment of the medical necessity of hospital stays immediately preceding Medicare-covered nursing home admissions. To provide better information on the medical necessity of prior hospital stays, at least three peer review organizations would be required to review and provide hard data on these cases.

The bill would also expand coverage of home health services. For many Medicare beneficiaries, services provided in their home by nurses or home health aides substitute for days that would otherwise be spent in a hospital or a nursing home. The law allows for coverage of home health services provided on an intermittent basis, without clearly defining this term. Medicare administrative guidelines generally limit benefits to 3 weeks of continuous home health services. The interpretation of these requirements, and therefore the coverage of home health services, varies across the country, however.

S. 1520 would clarify the law and extend home health benefits for up to 42 days of continuous services. This would make home health benefits available for a longer period of time for those beneficiaries with a need for daily visits. For example, individuals for whom a 6-week course of antibiotic therapy is prescribed would have uninterrupted treatment at home instead of requiring a lengthy and unnecessary hospital stay.

S. 1520 also includes a Medicaid demonstration project intended to encourage the development of adult day care centers located at federally supported housing facilities for the elderly. The demonstration projects would help to enhance coordination of health, housing and other services, and provide assistance to elderly individuals in the gray area between complete self-sufficiency and institutionalization.

At the adult day centers established through this demonstration project, individuals would receive personal care and supervision, meal service, health and social services, and other services to lend the support needed to delay in-

stitutionalization for as long as possible. These services can help not only the elderly individual who uses the services, but his or her family as well. For example, if adult day care is available, some caretakers may be able to continue to pursue their careers instead of having to quit their jobs and stay home to care for an elderly relative.

While many of us wish it were possible to immediately enact comprehensive long-term care legislation, the cost of such legislation will make it difficult to move ahead in the near term. However, we cannot ignore the serious financial problems facing families with elderly relatives in declining health. Accordingly, I offer four proposals today to improve the existing Medicare home care and nursing home benefits, and through the Medicaid program, to expand the availability of alternative community care settings for the noninstitutionalized elderly.

It is my hope that these steps can be taken, which are certainly modest in comparison to the growing and costly need for comprehensive long-term care services. However, the cost of even the modest Medicare and Medicaid proposals included in this bill are not insignificant. While the bill does not presently include an offset to cover these new expenditures, let me assure my colleagues that when in is reported by the Committee on Finance, all costs will be covered.

Mr. President, I ask unanimous consent that the text of S. 1520 and a summary of the bill be printed in the RECORD immediately following my remarks.

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

S. 1520

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 "Medicare and Medicaid Chronic Care Amendments Act of 1991".

SEC. 2. ASSESSMENT AND ADJUSTMENT OF COINSURANCE AMOUNT FOR POST-HOSPITAL EXTENDED CARE SERVICES.

(a) IN GENERAL.—Paragraph (3) of section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)), as restored by section 101(a) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended to read as follows:

"(3)(A) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to \$65.00 for each day (before the 101st day) on which such individual is furnished such services after such services have been furnished to such individual for 20 days during such spell.

"(B) Before September 1 of each year (beginning with 1992), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for post-hospital extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1992), promulgate

the coinsurance amount which shall apply to post-hospital extended care services furnished in the succeeding year. Such amount shall be equal to the greater of—

"(1) 20 percent of the national average per diem cost estimated under subparagraph (B) in that year, rounded to the nearest multiple of 50 cents (if such amount is not a multiple of 50 cents); or

"(2) \$65.00."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 1813(b)(3) of such Act (42 U.S.C. 1395e(b)(3)), as revived by section 101(a) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by striking "and post-hospital extended care services".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to post-hospital extended care services furnished on or after January 1, 1992.

SEC. 3. EXTENDING HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 42 consecutive days."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished in cases of initial periods of home health services beginning on or after January 1, 1992.

SEC. 4. STUDY AND REVIEW OF PRIOR HOSPITALIZATION REQUIREMENT FOR COVERAGE OF EXTENDED CARE SERVICES.

(a) STUDY AND REPORT ON 3-DAY INPATIENT HOSPITAL STAY REQUIREMENT.—(1) Within 1 year of the date of enactment of this Act, the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall study and report to Congress on the impact of eliminating the requirement under section 1861(i) of the Social Security Act that the provision of skilled nursing facility benefits is only covered under title XVIII of such Act if furnished to an individual who prior to receiving such benefits was an inpatient of a hospital for a period of at least 3 consecutive days.

(2) The report summarizing the findings of the study conducted under paragraph (1) shall include—

(A) an estimate of the impact of eliminating the prior hospitalization requirement on spending for inpatient hospital services under title XVIII of the Social Security Act and nursing home services under titles XVIII and XIX of the Social Security Act;

(B) an estimate of the impact of eliminating the prior hospitalization requirement on out-of-pocket spending by individuals entitled to benefits under title XVIII of the Social Security Act;

(C) an assessment of the medical necessity of inpatient hospital stays immediately preceding the provision of skilled nursing facility services as currently required under section 1861(i) of the Social Security Act; and

(D) the Secretary's recommendation regarding the appropriateness of eliminating the current 3 day prior hospital stay requirement.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS TO REVIEW PRIOR HOSPITAL STAY REQUIREMENT.—(1) The Secretary shall enter into agreements with at least 3 organiza-

tions with contracts under section 1154 of the Social Security Act. Such agreements shall specifically provide for the review, as described under section 1154(a)(1), of all inpatient hospital stays for patients receiving post-hospital extended care services for which payment is made under title XVIII of the Social Security Act.

(2) The Secretary shall, within 6 months after the date the reviews described in paragraph (1) are completed, report to Congress on the results of such reviews.

SEC. 5. DEMONSTRATION PROJECTS TO PROVIDE ADULT DAY CARE SERVICES IN ELDERLY HOUSING FACILITIES.

(a) IN GENERAL.—Pursuant to section 1115 of the Social Security Act, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall, acting through the Office of Research and Demonstrations, provide for the establishment of 5 demonstration projects under title XIX of the Social Security Act, to provide for the operation of adult day care centers (as defined in subsection (d)(2)) which are located in section 202 housing facilities (as defined in subsection (d)(3)), and which are operated by States, local governments or nonprofit organizations, for the benefit of elderly residents of the section 202 housing facilities and non-residents who live in the local community, in order to reduce the risk of institutionalization and provide respite to families who care for the elderly at home. The Secretary, in conducting demonstration projects under this section, shall provide for the waiver of the provisions of such sections of title XIX of the Social Security Act as may be necessary to carry out the purposes of this section, as provided in subsection (i).

(b) CONTENTS OF APPLICATION.—An application submitted by a State to the Secretary to conduct a demonstration project under this section shall, with respect to each adult day care center operated under a demonstration project under this section—

(1) contain assurances that adult day care center will meet the standards applicable to the provision of home and community based services under section 1929(f) of the Social Security Act and such other standards as the Secretary may specify;

(2) describe the site where the adult day care center will be located and the services to be provided by the adult day care center;

(3) describe the adult day care center management (organizational structure, lines of supervision and responsibility, personnel policies and practices, governing body, sources of funding, and such other information as the Secretary may require);

(4) specify the number of individuals to be served at the adult day care center and describe the populations that the adult day care center is expected to serve (the mix of clients' types and degree of functional disabilities, ages, income levels, living arrangements, and caretaker arrangements);

(5) provide a planned staffing profile specifying the numbers and professional backgrounds of individuals to be employed full- or part-time or who volunteer at the adult day care center and the training, continuing education, and evaluation procedures to which such employees and volunteers will be subject;

(6) specify the intended ratio of each type of staff member (such as nurses, supervisors, social workers, and others) to clients;

(7) describe the procedures by which the State or adult day care center management will—

(A) determine whether an individual is eligible to receive services pursuant to the cri-

teria established under subsection (e)(1), which procedures must involve State responsibility to make or review such determinations;

(B) develop a care plan;

(C) evaluate the progress of patients; and

(D) maintain patient records;

(8) describe methods by which the adult day care center management will attempt to recruit and screen participants from the section 202 housing facility and from the local community;

(9) contain assurances that the adult day care center will—

(A) meet any applicable State licensure requirements or other standards applicable to adult day care centers operating in the State;

(B) meet the requirements of section 1929(f) of the Social Security Act, and any other standards established by the Secretary under this section; and

(C) specify the procedures by which the State will ensure that the adult day care center meets such standards;

(10) set forth the reimbursement rate to be paid to the adult day care center by the State and enumerate any other sources of funding or in-kind support on which the adult day care center will rely; and

(11) provide any additional information that the Secretary may require.

(c) SELECTION OF APPLICATIONS.—In selecting applicants to conduct demonstration projects under this section, the Secretary—

(1) shall ensure that such projects are conducted in geographically diverse areas;

(2) shall provide that no more than 2 demonstration projects are conducted in any one State;

(3) shall provide that a site currently providing adult day care center services under section 1929 of the Social Security Act will not be selected;

(4) shall provide that a site currently providing adult day care services in a 202 housing facility described in subsection (d)(3) will not be selected;

(5) shall ensure that the project meets the requirements under subsection (d); and

(6) may select 1 or more sites which serve exclusively clients who meet the criteria established in subsection (e)(1)(B)(ii) (relating to cognitive impairments).

(d) PROJECT REQUIREMENTS.—(1) A demonstration project established by the Secretary under this section shall provide that with respect to an adult day care center operating under a demonstration project under this section—

(A) each adult day care center serves residents of a 202 housing facility (defined in paragraph (3)) and residents of the local community who meet the criteria established under subsection (e);

(B) no more than 25 percent of the individuals served by an adult day care center are residents of the 202 housing facility at which the adult day care center is located unless, after recruiting efforts, the adult day care center management is unable to fill additional slots with qualified participants from the local community and the Secretary approves an exception for this reason;

(C) the adult day care center provides at the facility—

(i) supervision and personal care of clients;

(ii) meal and snack service (as the Secretary determines to be appropriate for the length of time participants attend the center, and coordinated with other programs providing meal services so as not to supplant such services);

(iii) transportation to and from the facility;

(iv) organized social, recreational, and therapeutic services;

(v) monitoring of medication and health;

(vi) nursing services, to the extent needed by the residents;

(vii) capability to handle emergency and life-threatening situations (including escape plans in the event of fire, maintenance of essential medical information about clients, and presence of personnel trained to provide first aid and cardiopulmonary resuscitation);

(viii) coordination of such services with other organizations operating in the community; and

(ix) such other services as the adult day care center may wish to provide and the Secretary deems appropriate;

(D) the adult day care center meets the minimum requirements for home and community care established under section 1929(f) of the Social Security Act and any other requirements established by the Secretary pursuant to this section; and

(E) the adult day care center meets any applicable State licensure requirements or other standards applicable to adult day care centers operating in the State.

(2) For purposes of this section an "adult day care center" is a site at which health, social, therapeutic, and related support services are furnished by appropriately trained staff for 4 or more (but less than 24) hours per day, on a regularly scheduled basis at least 3 days per week, to functionally or cognitively impaired adults through an individualized plan of care designed to ensure the optimal functioning of such an individual.

(3) For purposes of this section a "202 housing facility" is any housing project or residence financed under section 202 of the Housing Act of 1959 which has sufficient congregate space to accommodate an adult day care center meeting the standards required by this section.

(e) **INDIVIDUAL ELIGIBILITY CRITERIA.**—(1) An individual shall be eligible to participate in a demonstration project under this section if such individual—

(A) is 65 years of age or older;

(B)(i) is unable to perform without substantial assistance from another individual at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating; or

(ii) has a cognitive impairment such that he or she is—

(I) unable to perform without substantial human assistance (including verbal reminding or physical cuing) or supervision, at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating; or

(II) requires substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself;

(C) has an income no greater than 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act; and

(D) has resources (as determined under section 1613 for purposes of the supplemental security income program) that do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

(2) In determining which eligible individuals should receive services at an adult day care center operated under a demonstration project under this section from among those individuals who are not residents of the section 202 housing facility in which the adult day care center is located, priority should be

given to individuals who are dependent on a daily basis on a primary caregiver who is living with the individual and—

(A) is assisting the individual at least 4 hours during each weekday without monetary compensation in the performance of at least 2 activities of daily living (bathing, dressing, toileting, transferring, and eating); and which the individual could not perform without such assistance, or

(B) is providing supervision necessary to prevent the individual from posing a health or safety hazard to himself or herself.

(3) Individuals served in an adult day care center operated under a demonstration project under this section must be scheduled to receive services at least 3 full days per week or the equivalent thereof.

(4) A demonstration project conducted under this section may provide that individuals not meeting the eligibility criteria specified under paragraph (1) may receive services at an adult day care center if the resources of the adult day care center permit and if, after recruiting efforts by the adult day care center management, all individuals eligible under paragraph (1) who are seeking the services of the adult day care center are being served, and such an individual is required to pay for such services pursuant to a sliding scale fee schedule based on income, which is established by the State, and under which the highest daily per capita payment does not exceed the daily per capita cost of the program.

(5) Eligibility for participation in a demonstration project under this section shall not entitle participants to be eligible for other services under title XIX of the Social Security Act, nor affect such individuals' receipt of services (other than adult day care services) under such title if they are otherwise eligible for such services.

(f) **ELIGIBLE ENTITIES.**—An entity eligible to conduct a demonstration project under this section shall be a State, local government, or nonprofit organization.

(g) **REIMBURSEMENT AND ALLOCATION OF FUNDS.**—(1) An entity operating an adult day care center under this section shall be reimbursed by the State at a rate set by the State which is reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

(2) The amount allocated by the Secretary to each project site shall not exceed that site's prorated share of the total sums available under subsection (k) as calculated on the basis of the number of client-days expected to be generated at such a site.

(h) **DURATION OF PROJECT.**—A demonstration project conducted under this section shall be conducted for a period of up to 5 years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the entity conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(i) **WAIVER OF PROVISIONS OF TITLE XIX.**—The Secretary in providing for demonstration projects under this section may waive section 1902(a)(1) (relating to statewideness), section 1902(a)(10) (relating to amount, duration, and scope), and such other provisions of title XIX of the Social Security Act, except section 1929, (relating to minimum requirements for home and community-based care), section 1903(m) (relating to health maintenance organizations) and section 1905(b) (relating to the Federal medical assistance per-

centage) as deemed necessary to carry out the purposes of this section.

(j) **EVALUATION AND REPORT.**—(1) The Secretary shall evaluate the effectiveness of each demonstration project conducted under this section in—

(A) providing high quality adult day care services;

(B) delaying or preventing institutionalization or hospitalization of the section 202 housing facility residents served by such projects in comparison to the housing facility residents of comparable functional ability who do not receive services at the adult day care center;

(C) reducing costs by providing adult day care services at section 202 housing facilities as compared to other settings (such as free-standing adult day care centers and centers located in nursing homes, public housing facilities, and senior centers);

(D) providing relief to caregivers; and

(E) meeting such other goals as the Secretary may specify.

(2) The Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives summarizing the findings of the evaluation conducted under paragraph (1), by no later than 1 year after the third year that such projects are commenced, and shall submit a final evaluation no later than six months after completion of the demonstration projects.

(k) **LIMITS ON EXPENDITURES AND FUNDING.**—(1) The Secretary in conducting projects under this program shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than \$7,000,000 for the 5-year period beginning with fiscal year 1992.

(2) Payments to a State under a project with respect to expenditures made for medical assistance made available under a demonstration project under this section may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(3) Payments shall be made under this section only for—

(A) services specified in subsection (d)(1)(C) and such other services as specified by the Secretary pursuant to this section, provided to individuals who meet the eligibility criteria established under subsection (e)(1);

(B) the start-up costs attributable to establishing an adult day care center to be operated under a demonstration project under this section; and

(C) the costs attributable to evaluation of the demonstration projects.

SUMMARY OF THE MEDICARE AND MEDICAID CHRONIC CARE AMENDMENTS REDUCTION IN SKILLED NURSING FACILITY (SNF) COINSURANCE RATE

The requirement that the coinsurance rate for Medicare SNF services equal ½ of the inpatient hospital deductible would be eliminated, and the coinsurance amount would be reduced from its 1991 level of \$78.50 to \$65.00 in 1992. The daily coinsurance amount would remain at \$65.00 until the coinsurance rate equals 20 percent of the average cost of a SNF day. This provision would not change the current law requirement that begins application of coinsurance after the 20th day in a skilled nursing facility.

EXTENDED MEDICARE HOME HEALTH BENEFITS
Medicare home health benefits would be extended to cover up to 42 consecutive days

of nursing and home health aide visits. Current law covers home health benefits provided on a part-time or intermittent basis. Guidelines define intermittent to include up to 28 hours per week of home health services provided on less than a daily basis, or up to 21 consecutive days of services. This provision would define intermittent to include services provided less than 7 days a week, or up to 42 days of consecutive services.

STUDY OF THREE DAY PRIOR STAY REQUIREMENT

The Secretary of HHS would report to the Congress on the impact of eliminating the three day prior hospitalization requirement for Medicare coverage of skilled nursing facility benefits. The report would include an estimate of the budgetary implications for the Medicare and Medicaid programs and on beneficiary out-of-pocket costs, and an assessment of the medical necessity of inpatient hospital stays immediately preceding skilled nursing facility admissions under current law, and the Secretary's recommendation concerning continuation of the three day stay requirement.

The Secretary would also be required to enter into agreements with at least three Peer Review Organizations to provide for 100 percent medical necessity review over a one-year period of hospital admissions immediately preceding Medicare-covered nursing home stays.

ADULT DAY CARE DEMONSTRATION PROJECT

Five 5-year demonstration projects would be established to encourage development of adult day care centers located in elderly housing facilities. States could receive Medicaid Federal matching funds to reimburse adult day care centers operated by nonprofit organizations, local governments, or States and which are located at housing facilities financed through the Housing and Urban Development "Section 202" program (which finances housing for the elderly and disabled). At the Secretary's discretion, some of the projects could be specialized to serve cognitively impaired individuals.

Eligibility for services at an adult day care center would be restricted to individuals who: are 65 years of age or older; limited in performing at least two out of five activities of daily living (bathing, dressing, toileting, transferring and eating) due to physical or cognitive impairments, or, due to cognitive impairment, pose a danger to themselves; have an income no greater than three times the Federal benefit level for the Supplemental Security Income (SSI) program (i.e., \$14,652 per year in 1991); and have resources no greater than twice the amount than an individual may have to be eligible for the SSI program (i.e., \$4,000).

No more than 25 percent of the clients at an adult day care center could be residents of the Section 202 housing facility. In selecting clients from the local community, priority would be given to those cared for by a family member or another person living at home (so that the program serves to provide respite to caretakers as well as services to clients). If resources permit, the adult day care centers could also serve clients who do not meet the program eligibility criteria if payment is made on a sliding-scale basis.

The following services would be provided at the adult day care centers: supervision and personal care; meal service; transportation; social, recreational and therapeutic services; monitoring of health and medication; nursing services, to the extent necessary to serve the clients; capability to handle emergency situations; coordination of

services with other community organizations; and other services deemed appropriate by the Secretary of Health and Human Services.

The adult day care centers would be required to meet any State licensure or other applicable standards and such other standards as the Secretary may require.

Evaluation would be required to determine: the effectiveness of the adult day care centers in providing high quality adult day care services, preventing or delaying institutionalization and hospitalization of participants, and alleviating caregiver burdens; the relative cost of providing adult day care services at Section 202 housing sites as compared to other settings; and such other criteria as the Secretary may deem appropriate.

CBO estimates the Federal cost of this provision at \$7 million over five years. The Federal matching funds could be used for start-up costs, operating expenses, and evaluation costs.

● Mr. BRADLEY. Mr. President, I rise today in support of the Medicare and Medicaid chronic care amendments introduced by Senator BENTSEN. These amendments will provide some important benefits to older Americans. These benefits will enable those among the dependent elderly and disabled to obtain needed care in the comfort and the dignity of their homes. The support of skilled personnel who come to the home to provide care, can mean the difference between recovering and receiving rehabilitation at home or going to a skilled nursing facility.

An estimated 1½ million people currently are cared for in nursing homes. Yet that is only 20 percent of the elderly who need long-term-care services. The remainder continue to live in their communities and depend on a network of both formal and informal caregivers. As our population ages and a greater proportion of our people live long enough to confront dependency, adequate protections for the care of elderly recipients, adequate support for the caregivers, and appropriate services must be developed and implemented to provide quality and cost effective services for the aging in our society.

Mr. President, for years now I have worked to expand home and community care services for the elderly. I have worked on ensuring that our elder citizens have access to humane and supportive care and services as they grow older and become more dependent. Home care, adult day care, and respite care have been approaches that I have emphasized because I believe that they offer the elderly needed services in settings that are supportive and accessible to their families.

Mr. President, over the years I have held several hearings in New Jersey on the need to expand home health services. Four years ago, I introduced legislation to triple the number of days of daily home health services that Medicare would provide. In 1988, Congress enacted the catastrophic health care legislation, which roughly doubled the home care benefit from 2 to 3 weeks of

daily care to 38 days of care. That was an important step, and I took great pride in being part of enactment of the expansions. Unfortunately, these special protections for our disabled and dependent elderly were lost in the rush to repeal the Medicare Catastrophic Coverage Act. I believe that the loss was both gravely shortsighted and unwise. Last year, I introduced a bill to restore and expand these special home care protections in the Home Benefits Improvements Act of 1990. This legislation was not enacted in the 101st Congress.

I am particularly pleased that the amendments which are being introduced today reinforce my efforts to restore and broaden Medicare's Home Health Program. Currently, the present system of Medicare reimbursement for home care is totally geared toward post-acute care rather than long-term care. Despite the fact that many elderly patients are being discharged from hospitals earlier than in the past because of the prospective payment system, Medicare-reimbursed home health services are becoming less available to patients. The definition of intermittent, in particular, has contributed to confusion about coverage.

The expanded home health care benefits proposed in these amendments may provide the margin of care necessary to keep beneficiaries in the home setting. The amendments will clarify eligibility for this benefit by clearly defining intermittent care. It will also double the number of days of skilled home health care covered for the sickest elderly, those who require skilled home care for up to 7 days per week. It will increase the number of days from 3 weeks under current law to 42 days of coverage.

Mr. President, the amendments introduced today address problems in the Medicare and Medicaid programs through much needed clarification of the extended Medicare home health benefits, formal study of the issue of the 3-day prior hospital stay requirement for Medicare coverage of skilled nursing benefits, modification of the coinsurance rate requirements for Medicare skilled nursing facilities, and establishment of adult day care demonstration projects. These amendments will support my efforts to remove some of the administrative barriers and bureaucratic redtape which prevent elderly, sick Americans from receiving the benefits that Congress intended them to have.

● Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished chairman of the Finance Committee, Senator BENTSEN, in introducing the Medicare and Medicaid Chronic Care Amendments Act of 1991.

Mr. President, in 1988, when Congress passed the Medicare Catastrophic Coverage Act, our goal was to create a benefit package that would better meet

the needs of the elderly and disabled population. Unfortunately, in the pandemonium surrounding the repeal of catastrophic, some of the most critical benefits were eliminated, despite my best efforts and those of Senator BENTSEN to preserve them.

While not identical to the skilled nursing home and home health care benefits contained in the catastrophic legislation, the bill we are introducing today is similar in content and designed to accomplish many of the same objectives.

Mr. President, we are seeking to reduce the out-of-pocket expense of a skilled nursing home stay. While there may have been a good reason to tie the coinsurance rate for skilled nursing care to the inpatient hospital deductible in 1965, this rationale no longer exists. The cost of an acute care hospital day has risen far more rapidly than the cost of a day in a skilled nursing facility, meaning that patients are absorbing a much larger proportion of the cost of their skilled nursing care in 1991 than they did in 1965. In fact, in some parts of the country, the Medicare coinsurance for a skilled nursing home day—\$78.50 this year—exceeds the average cost for the day. We can hardly say that Medicare is paying its fair share of the bill in these cases.

The chronic care amendments would reduce the coinsurance to \$65 and then freeze it until it equals 20 percent of the average cost of a skilled nursing facility day. This would establish a more reasonable level of cost sharing for beneficiaries, and it would do so in a very gradual manner from a financial perspective. My understanding is that it could well be more than a decade before \$65 equals 20 percent of the average cost of a skilled nursing home day.

Mr. President, the chronic care amendments would also clarify the definition of "intermittent care" for home health services and would provide coverage for up to 42 consecutive days. This provision is similar to the one I fought to preserve during the repeal of catastrophic.

I would note that the existing definition of "intermittent care" is cumbersome and virtually impossible for anyone with even the highest levels of education to understand. It is unfair to continue to burden beneficiaries and home health care providers with its ambiguities.

Mr. President, two other important provisions are contained in the chronic care amendments. First, we have charged the Secretary of Health and Human Services to report to Congress on the impact of eliminating the 3-day prior authorization requirement for Medicare coverage of skilled nursing home care. At the same time, we have asked the Secretary to contract with at least three peer review organizations to review the medical necessity of all hospital stays immediately pre-

ceding Medicare-covered nursing home stays. This will help lay to rest once and for all the question of whether many of the hospitalizations occurring before a skilled nursing home stay are initiated simply to gain access to nursing home care. While I have my doubts, I think it is very important to obtain empirical data and then make a policy decision on whether to keep or eliminate the 3-day prior stay requirement.

Finally, Mr. President, the chronic care amendments would fund five 5-year demonstration projects to encourage the development of adult day health centers in HUD section 202 elderly housing facilities. The purpose of these demonstrations would be to learn whether adult day health centers located in housing projects are effective in providing high quality services, whether the availability of such services delays institutionalization and hospitalization of participants, and the relative cost of providing adult day health services at section 202 housing sites compared to other settings.

Mr. President, taken together, the chronic care amendments form an excellent basis for improving the affordability and availability of chronic care services to Medicare beneficiaries. I want to stress, however, that as we move to consider this legislation in the Finance Committee I plan to work closely with the chairman and other members of the committee to ensure that we carefully consider the impact of the legislation on the long term costs of the Medicare Program, and that we establish an appropriate and equitable mechanism for paying for these important provisions.●

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. BAUCUS, Mr. DOLE, Mr. PRYOR, Mr. SYMMS, Mr. BREAUX, Mr. ROTH, Mr. DASCHLE, Mr. GRASSLEY, Mr. RIEGLE, Mr. LEAHY, Mr. LUGAR, Mr. HEFLIN, Mr. COCHRAN, Mr. HELMS, Mr. CONRAD, Mr. DANFORTH, Mr. HARKIN, Mr. SEYMOUR, Mr. AKAKA, Mr. BOND, Mr. DECONCINI, Mr. DIXON, Mr. EXON, Mr. FORD, Mr. GORTON, Mr. INOUE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KERRY, Mr. LEVIN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. WIRTH, Mr. BROWN, Mr. CRAIG, Mr. WELLSTONE, Mr. ADAMS, and Mr. CRANSTON).

S. 1522. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of cooperatives of gains or losses from sale of certain assets; to the Committee on Finance.

TAX RELIEF FOR FARM COOPERATIVES

Mr. BOREN. Mr. President, today Senator DURENBERGER and 49 additional Senators join me in introducing legislation intended to clarify the tax

treatment of gains and losses resulting from the sale of assets by farmer cooperatives. Currently, cooperatives that sell an asset face uncertainty regarding whether the gain or loss from that asset should be considered as resulting from patronage sources or nonpatronage sources. The classification of income as patronage or nonpatronage is important since gain from patronage sources may be distributed to patrons as a patronage dividend which is deductible to a cooperative and taxable to the patron. This bill allows nonexempt farmer cooperatives to elect patronage-sourced treatment for gain or loss from the disposition of an asset used in the cooperative's business with farmer-patrons.

Due to conflicting signals from the Internal Revenue Service regarding the classification of various items of income as patronage or nonpatronage sourced, farmer cooperatives have taken different approaches to making these determinations regarding gain or loss from the sale of assets. Some cooperatives, relying on a general standard adopted by both the IRS and the courts, have treated this gain or loss as patronage sourced because the assets sold actually facilitated the marketing, purchasing, or service activities of the cooperative. Other cooperatives have treated gain or loss from the sale of assets used in the patronage operations as nonpatronage sourced in reliance on an example in Treasury Regulation Section 1.1382-3(c)(2) and the IRS's administrative position that capital gain is automatically treated as nonpatronage sourced.

Farmer cooperatives that have treated gain or loss from the sale of assets as patronage sourced have found themselves facing IRS challenge. This has been the case even though patronage treatment based on the use of an "actually facilitates" analysis has been consistently applied in court cases where the characterization of income as patronage or nonpatronage has been at issue. In fact, the courts have taken this position based on their interpretation of the rationale behind an IRS published ruling.

This legislation would relieve cooperatives of the uncertainty they currently face when deciding how to treat gain or loss from the sale of an asset used in their patronage business by essentially codifying the test used by the courts.

A survey by the National Council of Farmer Cooperatives clearly demonstrates that the impact of this legislation is widespread and of great interest to the farmer cooperative community. The survey showed that a significant number of respondents indicated that they classify the gain or loss from the sale of an asset in accordance with how the asset was used in the cooperatives business. The bill's importance is further demonstrated by the number of

cosponsors. Support includes a majority of the Finance Committee and the entire Agriculture Committee.

The Finance Committee has previously adopted this provision, but the full Senate has not had an opportunity to consider the issue. Cooperatives have faced uncertainty for too long. The IRS has amply proven it will not abide by the court cases dealing with this issue. It is now up to Congress to put this issue to rest.

The resolution of this issue is important to the over 100 farmer cooperatives headquartered in my State of Oklahoma as well as thousands of other farmer cooperatives across the Nation and their farmer members. For these reasons, I urge my colleagues who have not done so to join in support of this needed legislation. Mr. President, ask unanimous consent that the text and a section-by-section analysis of the bill, and a letter from the National Council of Farmers Cooperatives be printed in the RECORD.

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

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1388 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

“(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any organization to which part I of this subchapter applies—

“(1) IN GENERAL.—Such an organization may elect to treat gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another equity) as ordinary income or loss and to include such gain or loss in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons.

“(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

“(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

“(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

“(5) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for organizations not having in effect an election under paragraph (1). Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted.”

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

(2) If the organization makes an election under section 1388(k)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) with its return for a taxable year beginning before January 1, 1992, and such election provides that such organization elects to take benefits of this paragraph, the amendment made by subsection (a) shall also apply to all taxable years beginning before January 1, 1992, and the election under such section 1388(k)(1) shall also be effective for all such taxable years.

SECTION-BY-SECTION ANALYSIS OF PROPOSED LEGISLATION ON TAX TREATMENT OF CERTAIN ASSET DISPOSITIONS BY NONEXEMPT FARMER COOPERATIVES

PARAGRAPH 1. IN GENERAL.

Cooperatives may elect patronage sourced treatment for gain or loss from the sale or other disposition of any asset, provided that the asset in question was used by the organization to facilitate the conduct of business done with or for patrons. The election would apply to all assets including depreciable section 1231 assets as well as stock or any other ownership or financial interest in another entity. Under the election, the gain or loss resulting from the asset sale would be treated as ordinary.

PARAGRAPH 2. ALLOCATION.

Where an asset has been used for both patronage and nonpatronage purposes, the election to treat gain or loss from the sale of that asset as patronage sourced applies only to the amount of the gain or loss allocable to the patronage use. A cooperative may use any reasonable method for making allocations of income or expenses between patronage and nonpatronage operations.

PARAGRAPH 3. PERIOD OF ELECTION.

The statutory election would be available generally with respect to taxable years beginning after 1990 and, unless revoked by the cooperative, for all taxable years subsequent to the first taxable year for which the election is made. An election which is made with respect to a taxable year beginning before 1992 would, if the election so provided apply also to prior taxable years of the electing cooperative. An electing cooperative can at any time revoke its election effective for taxable years beginning after the date on which the revocation notice was duly filed with the IRS.

PARAGRAPH 4. ELECTION AFTER REVOCATION.

If the cooperative revokes the election, it must wait at least three taxable years before making another election.

PARAGRAPH 5. NO INFERENCE.

No inference will be drawn from the legislation regarding the proper application of existing law relating to the classification of income or loss from asset dispositions by nonelecting cooperatives.

NATIONAL COUNCIL
OF FARMER COOPERATIVES,
Washington, DC, July 18, 1991.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOREN: On behalf of the National Council of Farmer Cooperatives, I would like to take this opportunity to express our strong support for your proposed legislation to clarify the tax treatment of gain or loss on the sale of assets by farmer cooperatives.

The National Council of Farmer Cooperatives is a nationwide trade association representing over 100 major regional marketing, supply and credit cooperatives, and 32 State Councils. Our members represent nearly 5,000 local cooperatives with a combined membership of nearly 2 million farmers.

As proposed, the bill adopts the same test the courts have consistently applied in similar cases to determine whether income may be treated as patronage sourced. Under this test, cooperatives which are able to demonstrate as a matter of fact that the asset was used to facilitate business done for or with their farmer members would be able to treat any gain or loss as patronage sourced. Such patronage sourced income would continue to be taxed at either the cooperative or farmer level in accordance with Subchapter T of the Internal Revenue Code.

We believe this to be a fair and reasonable approach and one that is strongly supported by farmers and their cooperatives across the nation. The bill would eliminate the uncertainty facing many cooperatives regarding the tax treatment of gains or losses on the sale of assets and the prospect of continued costly and time-consuming litigation due to IRS challenges.

For these reasons, we again want to commend you for your leadership and support for this important legislation and we urge its enactment.

Sincerely,

WAYNE A. BOUTWELL,
President.

Mr. DURENBERGER. Mr. President, I am pleased today to join Senator BOREN and others among my colleagues in introducing legislation aimed at clarifying the tax treatment of farmer cooperatives with regard to gains or losses on the sale of certain assets.

This legislation is strongly supported by farmers and their cooperatives all across the Nation, including the nearly 500 cooperatives headquartered in the State of Minnesota.

During the last Congress, I cosponsored similar legislation which was approved by the Senate Finance Committee, but not considered by the full Senate. I am hopeful that this year, Mr. President, we will have the opportunity to bring this important legislation to the floor and see it signed into law.

This bill would simply adopt the same test that the courts have consistently used in a number of similar cases to determine whether income may be treated as patronage sourced. Patronage sourced income may be required to be distributed to the cooperatives' farmer members and would be included in the farmer's income and taxed accordingly. Under such a test, a cooper-

ative which can demonstrate as a matter of fact that an asset was used to facilitate business done for or with its farmer members may treat such gain or loss as patronage sourced.

Without enactment of this legislation, many farmer cooperatives will continue to be faced with considerable uncertainty regarding the tax treatment of gains or losses on the sale of assets such as grain elevators or other types of business assets. Uncertainty has created problems in the past and continues now to threaten cooperatives with challenges by the IRS, which can result in costly and time-consuming litigation. In the end, the ultimate cost is borne by the farmer member-owners of the cooperatives.

In adopting the same test consistently applied by the courts, this bill clarifies existing law and greatly simplifies tax compliance for farmer cooperatives. It would eliminate much of the uncertainty regarding the treatment of gains or losses on assets sales made by farmer cooperatives. Most importantly, this bill would reduce or eliminate the likelihood of protracted and expensive litigation, a development which would benefit the IRS and taxpayers alike.

Mr. President, I urge my colleagues to join with me in support of this important legislation and I urge its enactment.

Mr. INOUE. Mr. President, I rise today in support of the bill introduced by Senators BOREN and DURENBERGER concerning the tax treatment of asset sales by cooperatives. This legislation is vital to the cooperatives in Hawaii. Its enactment would allow Hawaiian cooperatives that treat gain or loss from the sale of an asset used in their member business as patronage sourced, will no longer face uncertainty regarding that decision.

This legislation codifies an IRS ongoing practice. It adopts the test used by the courts in determining what is patronage-sourced income. The IRS continues to uphold a position that has been defeated in court on nine occasions. Resolution of this issue once and for all would represent significant tax simplification for the cooperatives of Hawaii.

I am pleased that I am joining many of my Senate colleagues in cosponsoring this legislation. This demonstrates that it is an issue of concern to cooperatives across the country.

Mr. President, I urge my colleagues to support this tax simplification measure, and request its expeditious consideration.

Mr. DOLE. Mr. President, I am pleased to join my colleagues in strong support of the important and timely sale of assets legislation. Farmer cooperatives in my home State of Kansas and throughout the United States are now faced with needless complexity and confusion in a part of the tax law

that directly affects them—the determination of what is patronage sourced income.

The problem is that when a farm cooperative sells an asset it must determine for tax purposes whether the income or loss from the sale is patronage sourced. If the income is classified as patronage sourced the cooperative may be required to distribute it to its patrons who pay tax on the income. However, if the income is classified as nonpatronage sourced, the cooperative must pay tax on such income whether or not it is distributed to patrons.

In short, Mr. President, the legislation introduced today would do a great deal to simplify an important part of the tax law. It is essential that a cooperative be able to determine with reasonable certainty whether income is patronage source. Farmer cooperatives are a critical and integral part of the Kansas agricultural economy. There are 214 farmer cooperatives operating in virtually every one of the State's 105 counties. A very substantial number of the 70,000 Kansas farmers are owner-members of these 214 cooperatives, which had a combined business volume in 1990 of \$2.2 billion. All these local cooperatives as well as the regional cooperatives which they own have a vital stake in this legislation.

But this is not a Kansas issue. It is a national issue. Because of the broad based support among its membership, the National Council of Farmer Cooperatives advises me that this bill is its top legislative priority. The widespread support among farmer cooperatives is reflected by the fact that 51 Senators from Vermont to California and Hawaii and from North Dakota to Arkansas have joined in sponsoring this legislation. Among these sponsors are a majority of the Finance Committee and virtually all of the Agriculture Committee.

Mr. President, I am hopeful that we will be able to pass this legislation in 1991. Farmer cooperatives are not asking for a new tax break, rather they want clarification and simplification.

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of the legislation introduced today by Senators BOREN and DURENBERGER to clarify the tax treatment of gains and losses on the sale of assets by farmer cooperatives. The bill will allow cooperatives to treat the gain or loss resulting from the sale of any asset used by the cooperative as patronage-sourced, as long as the asset was used by the cooperative to facilitate the conduct of business with its members.

The need for this legislation is clear. In recent years, farmer cooperatives that have treated a gain or loss from the sale of assets as patronage-sourced have faced IRS challenge even where that asset actually facilitated the business activities of the cooperative. This

has occurred, in spite of recent court decisions which have consistently applied an "actually facilitates" test in distinguishing between patronage and nonpatronage income.

To address this problem, the legislation we are introducing today clarifies that the same test that the courts have used in related cases to determine whether the income may be considered patronage-sourced will be used for farmer cooperatives. Farmer cooperatives will thus be provided reasonable certainty as to the tax consequences of their asset sales. Without this legislation, many cooperatives will continue to face unnecessary challenges by the IRS, resulting in costly and time-consuming litigation.

Mr. President, this legislation is important to farmers across the United States, including those in my home State of Vermont. According to figures from the Department of Agriculture, four out of five American farmers belong to one or more farmer cooperatives. These farmer cooperatives produce and market practically every type of agricultural commodity. They also furnish production supplies and credit to their farmer members. There are nearly 5,000 local farmer cooperatives across the country, with a combined membership of nearly 2 million farmers. As you can see, Mr. President, the potential impact of this legislation is far reaching.

This legislation has strong bipartisan support. It is identical to a bill introduced in the last Congress by Senators BOREN and DURENBERGER and is supported by farmer cooperatives from all across the country. I would also point out that every member of the Senate Agriculture Committee is a cosponsor of this important legislation.

Mr. President, this reform is long overdue. I urge that it be favorably considered by Congress this year.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. HARKIN, Mr. PELL, and Mr. SIMON):

S. 1523. A bill to amend the Public Health Service Act to reauthorize certain institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH
REAUTHORIZATION ACT

Mr. KENNEDY. Mr. President, the legislation I am introducing today will enhance the Nation's preeminent role in biomedical research. The National Institutes of Health Reauthorization Act of 1991 will reauthorize programs at the NIH that have led to major discoveries of causes, treatments, and cures of a range of devastating diseases. This legislation will establish new initiatives and expand existing endeavors at the NIH in areas of growing concern and increasing potential. These areas include women's health,

children's health, the human genome, cancer, AIDS, and disease prevention and control. The measure is intended to stimulate growth in research and training to realize the great potential that exists for future advancements in medicine.

Every day we read of the latest astonishing scientific and medical developments. Today's achievements in basic and clinical research are the foundation for tomorrow's treatments and cures. Yet, the most remarkable achievement of the NIH may be that there has been no net cost to the American people. The health care savings from advances in one area alone—preventive medicine and the development of vaccines—have more than paid for the Nation's 105-year investment in the NIH. The NIH receives about one-half of 1 percent of the Federal budget and less than 2 percent of the health care dollar. The Nation's daily health care bill is over \$1.5 billion. The yearly bill for NIH is paid in 5 days. It is a small investment with an enormous dividend for a priceless asset of all Americans—their health.

Never have we needed biomedical breakthroughs more than we do now. Although millions of Americans have been saved from disease, millions of others suffer from afflictions for which there are not yet cures. Twenty years after Congress passed the National Cancer Act, cure rates for many cancers are increasing and lives are being saved. Still, half a million Americans will die from cancer this year. Ten years after the first reports of AIDS, we have made enormous progress in understanding the disease, yet the virus continues its relentless attack.

Today, inadequate funding of the NIH threatens to impede the great progress we have made and foreclose us from desperately needed treatments and cures. During the last decade, the NIH has seen modest growth of 2 to 3 percent per year above inflation. However, funding for the National Heart, Lung and Blood Institute increased at less than half that rate during the same period. The picture for the National Cancer Institute was worse, with its funding declining by 6 percent during the decade.

These two Institutes oversee contributions to our understanding of the two biggest killers in our society, heart disease and cancer. The failure to fully support growth of these institutes is a failure to take advantage of the many promising research, treatment, and prevention opportunities that have developed in the recent past.

Inadequate funding of the NIH also threatens the structure and vitality of biomedical research efforts nationwide. Our investment in the Nation's biomedical research enterprise is at risk of being devalued. Our leadership in biomedical research and biotechnology can easily be lost to other nations.

In the recent past, the Cancer and Heart, Lung, and Blood Institutes have been able to fund less than one out of four new and competing research proposals. Large numbers of the proposals that have gone unfunded are excellent, high priority research, the most promising work of our brightest investigators. In fact, there is often little difference in merit between the proposals that receive financial support and those that do not.

This situation threatens to erode the base of biomedical research. Many young scientists who fail to receive research grants, even though their projects are meritorious, will have to leave the field. Years of training have been invested in them. Experienced scientists who have been consistently supported for years will be forced to close their laboratories. High quality work with great promise for the future, will be left undone.

We need to send a clear message of support and renewal to show that our commitment to biomedical research is still a major priority of our society. This bill sends that message.

The legislation gives new authority for 5 years to the National Cancer Institute and the National Heart, Lung, and Blood Institute. Recently, a new era of human gene therapy was born when researchers from both Institutes collaborated to perform the first gene transfer studies in humans. Discoveries of oncogenes and suppressor genes may lead to opportunities for prevention, diagnosis, and treatment of cancers. These are but some of the breakthroughs of basic and clinical research at NIH.

The bill will reauthorize the National Cancer Institute at \$2.25 billion for fiscal year 1992 and the Heart, Lung, and Blood Institute at \$1.65 billion. These figures represent a \$450 million increase over fiscal year 1991 appropriations for the Cancer Institute and a \$550 million increase for the Heart, Lung, and Blood Institute. The increases will bring the budgets of these Institutes closer to professional recommendations. It will permit these Institutes to return their funding for new and competing grants to the mid-1980's level of 30-35 percent. Also included is much needed emphasis on prevention and control programs. These vital components of the health research effort have been too long neglected.

The bill also directs the Cancer Institute to significantly boost research efforts on breast cancer, one of the greatest threats among all cancers. Nearly one out of every four Americans diagnosed with cancer has cancer of the breast. Over 150,000 new cases will be diagnosed this year. This cancer is particularly devastating to young women. It is the leading cause of cancer death among women aged 15 to 54, in the prime of their lives and careers. In fact, women lose an average of 20 years

of potential life as a result of breast cancer. The bill authorizes \$75 million in new funds for a program to expand, intensify, and coordinate NIH efforts on breast cancer and certain other gynecologic cancers.

This bill will also reauthorize the National Research Service Award Program, which provides training grants for scholars across the Nation. We must move ahead to support the training of new investigators at a level that assures a continuing supply of scientists. These graduates are our next generation of researchers and teachers of researchers. It has been nearly two decades since I introduced the National Research Service Award Act to counter attempts to dismantle our system of support for the training of biomedical researchers. These training programs and the young scientists supported by them continue to play a critical role in the success of biomedical research.

The bill will reinvigorate the program as it approaches its twentieth anniversary. The funding of \$415 million, \$108 million over fiscal year 1991 appropriations, will bring us within targets set by the Institute of Medicine. It will support more than 15,000 training grants to individuals and institutions, representing over 1,000 new positions. This funding also will allow us to make stipends more competitive with those of other agencies and programs, enhancing our ability to attract new talent to biomedical and behavioral research. New authority is also granted to develop programs to recruit women, underrepresented minorities, and disadvantaged individuals into training programs.

Another provision that is equally essential to renewed growth in biomedicine is a peer review matching grant program for extramural facilities construction. Since 1969, when Federal support of research facility construction began to diminish, facilities have increasingly fallen into disrepair and needed new construction has been delayed. This provision authorizes \$150 million in funding to make a start in supporting construction needs that will require \$10 to \$15 billion over the next decade. We must begin to make progress in this area. It will be less expensive to meet our responsibilities in this matter now than to delay while construction costs continue to climb.

The reauthorization for the National Library of Medicine contained in the bill provides for expanded outreach programs under the authority of the Medical Library Assistance Act. A prestigious Planning Panel on Outreach has recommended a substantial enhancement of the Library's information system. It will make available to every physician in the Nation who has access to a personal computer the most current knowledge on the origins and treatment of disease. The bill supports this program and other NLM programs

with an authorization of \$40 million, more than doubling current funding. Improved medical information services can save many times their cost through earlier diagnosis and more up-to-date treatment.

The Center for Biotechnology Information, established in 1988 has demonstrated its usefulness in disseminating current information on molecular biology. The impressive advances in this field, particularly in the capacity to alter DNA, require the expansion of computer systems for entering, storing, analyzing, and transmitting this information. We need to develop new ways to link existing databases, create new databases, and provide integrated computer systems that will furnish easy-to-use access to these databases. The bill authorizes \$15 million for the Center, bringing the authorization level in line with what is currently being spent.

In addition to breast cancer, the bill emphasizes other important initiatives on women's health. Too little effort has been made to involve women in NIH-sponsored clinical research. As a result, serious uncertainties exist over whether new treatment or prevention methods tested on men are appropriate for women. In some cases, half the population is left without any benefit from years of clinical trials. Examples are the lack of women as subjects in cardiovascular research and the lack of research on the transmission and treatment of AIDS in women.

Bias against particular populations is unacceptable in any area and this bill seeks to eliminate it from biomedical research. It sets requirements for the inclusion of women and minorities in clinical trials conducted or supported by the NIH. It also gives statutory authority to the Office of Women's Health Research, established last year by NIH, to oversee the implementation of plans and policies for addressing women's health concerns throughout the Institutes. The Office will also develop plans for the establishment by 1993 of a Center for Women's Health Research, with the capacity to directly support such research.

Another important initiative that addresses a neglected area is new authority for research centers on human reproduction. While the Federal Government supports some basic research on reproductive health, including infertility and contraception, it has not been a priority for funding. Yet, the rates of abortion, unintended pregnancy, and infertility in the United States are among the highest in the industrialized world, and exact staggering economic and social costs. Because of cost and liability, only a few American pharmaceutical firms maintain an active research and development effort in contraception and infertility. As a result of these obstacles, progress has been slow. Norplant, the new

implantable contraceptive device, is the first new method approved since the 1960's.

There is a pressing need for more research in these areas to prevent the trauma of unintended pregnancy and the heartbreak of infertility. This legislation calls for five new applied research centers to seek new methods of contraception and new treatments for infertility. It also establishes an educational loan repayment program to encourage young scientists to choose careers in this area.

This legislation gives statutory authority to a new program of Child Health Research Centers administered by the National Institute of Child Health and Human Development. This program has made excellent progress since its initiation by Congress in 1989 and development at NIH last year. It is providing resources to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Pediatric investigators are acquiring the tools and skills needed to address urgent problems.

Ten years into the epidemic of acquired immune deficiency syndrome, the NIH has made rapid and significant advances in understanding the biology of the disease and the human response to infection. Yet, unusual properties of the AIDS virus have thwarted efforts to develop vaccines and other prevention strategies. These problems, along with continued spread of the epidemic to new areas and populations, have led to an enormous toll in human suffering and unprecedented challenges to our health care system. As a recent report by the Institute of Medicine concluded, NIH needs a carefully planned and well-organized long-term strategy for the control and eventual eradication of the virus.

This bill requires the Department of Health and Human Services to develop and implement a comprehensive plan for AIDS activities at NIH. Provision is also made for stronger evaluation efforts and the coordination of planning and evaluation. The bill places new emphasis on the development of strategies to prevent and treat the cancers and infectious diseases that accompany AIDS. It reauthorizes the successful program of educational loan repayment for health professionals who agree to conduct research on AIDS at NIH. It also calls for studies of parallel-track drug release mechanisms, drug approval processes, and third-party payors' policies regarding clinical trial participants.

The bill also requests permanent authority for the discretionary fund for the Director of the National Institutes of Health. This bill will provide the Director with \$25 million in needed support for research and programmatic opportunities that fall outside the normal funding cycle. It makes good ad-

ministrative sense to have a capacity to respond to research needs and opportunities as they arise, rather than wait for months until the funding cycle comes around again.

This legislation gives statutory authority to the National Center for Human Genome Research, which coordinates and supports research and training in the areas of human genome mapping and DNA sequencing. Its mission is to take full advantage of newly developed tools of molecular biology to accelerate our understanding of DNA and the genetic basis of disease.

The bill extends the authorization for the National Foundation for Biomedical Research to 1996. The Foundation, established by last year's NIH legislation, will support privately funded, endowed chairs for distinguished senior scientists at NIH. The presence and work of some of our country's most outstanding scientific leaders will help maintain the NIH at the forefront of biomedical research. The Foundation will also support a number of excellent mid-level visiting scientists who will benefit from and add to the research environment at NIH.

Our failure over the past decade to fully support biomedical research is short-sighted. There are few better investments in our future than the investment we make in health research. Passage of this bill will mark the beginning of a new era of creative support for the efforts of the Nation's scientists. Few priorities are more important than restoring the stature of America's biomedical research enterprise.

I ask unanimous consent that the text of the bill and a summary may be printed in the RECORD.

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

S. 1523

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 "National Institutes of Health Reauthorization Act of 1991".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References.

TITLE I—REAUTHORIZATION OF CERTAIN INSTITUTES AND EXPANSION OF VARIOUS PROGRAMS

Sec. 101. National Cancer Institute and National Heart, Lung and Blood Institute.

Sec. 102. National Library of Medicine.

Sec. 103. Revision and extension of National Research Service Awards Program.

Sec. 104. National Center for Biotechnology Information.

Sec. 105. National Foundation for Biomedical Research.

Sec. 106. Biomedical and behavioral research facilities.

TITLE II—WOMEN'S HEALTH RESEARCH
 Sec. 201. Women's health research.
 Sec. 202. Effective date and applicability of requirements.

TITLE III—CONTRACEPTION AND INFERTILITY

Sec. 301. Contraception and infertility.

TITLE IV—PROGRAMS RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

Sec. 401. Loan repayment program with respect to research at National Institutes of Health.

Sec. 402. Research with respect to acquired immune deficiency syndrome.

Sec. 403. Studies.

TITLE V—NIH DIRECTOR'S DISCRETIONARY FUND, CHILD HEALTH RESEARCH CENTERS, AND INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

Sec. 501. NIH Director's discretionary fund.

Sec. 502. Child health research centers.

Sec. 503. Interagency program for trauma research.

TITLE VI—NATIONAL CENTER FOR HUMAN GENOME RESEARCH

Sec. 601. Purpose of Center.

TITLE VII—DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

Sec. 701. Silvio Conte senior biomedical research service.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Paperwork reduction.

Sec. 802. National Commission on Sleep Disorders Research.

Sec. 803. Transfer of provisions.

Sec. 804. Biennial report on carcinogens.

Sec. 805. National Institute of Allergy and Infectious Diseases.

Sec. 806. General provisions.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—REAUTHORIZATION OF CERTAIN INSTITUTES AND EXPANSION OF VARIOUS PROGRAMS

SEC. 101. NATIONAL CANCER INSTITUTE AND NATIONAL HEART, LUNG AND BLOOD INSTITUTE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408(a) (42 U.S.C. 284c(a)) is amended—

(1) in paragraph (1)—
 (A) by striking out “1,500,000,000” and all that follows through the period in subparagraph (A), and inserting in lieu thereof “2,018,400,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.”; and

(B) by striking out “100,000,000 and all that follows through the period in subparagraph (B) and inserting in lieu thereof “such sums as may be necessary in fiscal year 1991, \$156,600,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.”; and

(2) in paragraph (2)—
 (A) by striking out “\$1,100,000,000” and all that follows through the first period in subparagraph (A), and inserting in lieu thereof “\$1,500,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.”; and

(B) by striking out “\$101,000,000” and all that follows through the period in subparagraph (B) and inserting in lieu thereof “such sums as may be necessary for fiscal year 1991, \$151,500,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.”;

(b) RESOURCE PROGRAM.—Section 421(b) (42 U.S.C. 285b-3(b)) is amended—

(1) in paragraph (3), by striking out “and” at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof “; and”; and

(3) by inserting immediately after paragraph (4) the following new paragraph:

“(5) Shall, in consultation with the advisory council for the Institute, support appropriate programs of training and education, including continuing education and laboratory and clinical research training.”

SEC. 102. NATIONAL LIBRARY OF MEDICINE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 469 (42 U.S.C. 286E) is amended by striking out “\$14,000,000” and all that follows through the first period and inserting in lieu thereof “\$40,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996.”

(b) GRANTS FOR THE DEVELOPMENT OF NEW EDUCATIONAL TECHNOLOGIES.—Section 473 (42 U.S.C. 286b-4) is amended by adding at the end thereof the following new subsection:

“(c) The Secretary shall make grants to appropriate public or private nonprofit institutions for the purpose of carrying out projects in the research, development, and demonstration of new educational technologies. Such projects shall assist in the training of health professions students, and enhance and improve the research and teaching capabilities of health professionals. Funding may support projects including those concerning computer-assisted teaching at health professions and research institutions, the effective transfer of new information from research laboratories to appropriate clinical applications, the expansion of the laboratory and clinical uses of computer-stored research databases, and the testing of new technologies for training health care professionals in non-traditional settings.”

(c) REMOVAL OF CAP ON CERTAIN GRANTS.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out “, except that” and all that follows through “750,000”.

(d) NATIONAL INFORMATION CENTER ON HEALTH SERVICES RESEARCH AND HEALTH CARE.—Part D of title IV (42 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new subpart:

“Subpart 4—National Information Center on Health Services Research and Health Care Technology

“SEC. 478A. NATIONAL INFORMATION CENTER.

“(a) ESTABLISHMENT.—There is established within the National Library of Medicine an entity to be known as the National Information Center on Health Services Research and Health Care Technology (hereafter in this section referred to as the ‘Center’).

“(b) PURPOSE.—The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

“(c) COORDINATION.—The Secretary, acting through the Center, shall ensure that the activities carried out under this section are coordinated with related activities of the Agency for Health Care Policy and Research.

“(d) FUNDING.—The Director of the National Library of Medicine and the Administrator for the Agency for Health Care Policy and Research shall enter into an agreement providing for the implementation of this section.”

(e) CONFORMING PROVISIONS.—

(1) STRIKING OF DUPLICATIVE AUTHORITY.—Section 904 of the Public Health Service Act (42 U.S.C. 299a-2) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) RULE OF CONSTRUCTION.—The amendments made by subsection (d) and by paragraph (1) of this section may not be construed to terminate the information center on health care technologies and health care technology assessment or the interagency agreement established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act. Such center and interagency agreement shall be considered to be the center and agreement established in section 478A of the Public Health Service Act, as added by section 102 of this Act, and shall be subject to the provisions of such section 478A.

SEC. 103. REVISION AND EXTENSION OF NATIONAL RESEARCH SERVICE AWARDS PROGRAM.

(a) ADDITIONAL AUTHORITIES.—Section 487(a)(1) (42 U.S.C. 288 et seq.) is amended—

(1) in subparagraph (A)(iv), by striking out “and” at the end thereof;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new subparagraph:

“(C) make grants for comprehensive programs to recruit women, underrepresented minorities and individuals from disadvantaged backgrounds, into fields of biomedical or behavioral research and to provide research training to women, underrepresented minorities and such individuals.”

(b) AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.—Section 487(d) (42 U.S.C. 288) is amended by striking out “\$300,000,000” and all that follows through the first period and inserting in lieu thereof “\$415,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.”

SEC. 104. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Section 478(c) of the Public Health Service Act (42 U.S.C. 286c(c)) is amended—

(1) by striking out “\$8,000,000” and inserting in lieu thereof “\$15,000,000”; and

(2) by striking out “1989” and inserting in lieu thereof “1992”; and

(3) by striking out “fiscal year 1990” and inserting in lieu thereof “each of the fiscal years of 1993 through 1996”.

SEC. 105. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Section 499a (42 U.S.C. 289i) is amended—

(1) in the second sentence of subsection (c)(1)(A), by inserting “, except the ex officio members,” after “Foundation”; and

(2) in subsection (1)(1), by striking out “1995” and inserting in lieu thereof “1996”.

SEC. 106. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Title IV (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

“PART I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

“SEC. 499B. DEFINITIONS.

“As used in this part:

"(1) CONSTRUCTION AND COST OF CONSTRUCTION.—The terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements.

"(2) PUBLIC OR NONPROFIT PRIVATE INSTITUTION.—The term 'public or nonprofit private institution' means an institution that conducts biomedical or behavioral research, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"SEC. 499C. GRANTS FOR CONSTRUCTION.

"The Director of the National Institutes of Health, through the Director of the National Center for Research Resources (hereinafter in this part referred to as the 'Director'), is authorized to award grants on behalf of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration to public and nonprofit private institutions to expand, remodel, renovate, or alter existing research facilities or construct new research facilities pursuant to this part. Applications for grants shall be evaluated on the basis of merit as provided in section 499J.

"SEC. 499D. TECHNICAL REVIEW BOARD ON BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the National Center for Research Resources of the National Institutes of Health a Technical Review Board on Biomedical and Behavioral Research Facilities (hereinafter referred to in this part as the 'Board') to advise the Director and the Advisory Council established pursuant to section 480 (hereafter in this part referred to as the 'Advisory Council') on matters concerning the construction of facilities, and to conduct the peer review of applications received under this part.

"(2) MEMBERSHIP.—The Board shall be appointed by the Director and consist of not fewer than—

"(A) 12 members to be appointed without regard to the civil service laws; and

"(B) an official of the National Science Foundation designated by the National Science Board.

"(3) FACTORS FOR APPOINTMENTS.—In selecting individuals for appointment to the Board under paragraph (2), the Director shall consider factors such as—

"(A) the experience of the individual in the planning, construction, financing, and administration of institutions engaged in the conduct of research in the biomedical or behavioral sciences;

"(B) the familiarity of the individual with the need for biomedical or behavioral research facilities;

"(C) the familiarity of the individual with the need for dentistry, nursing, pharmacy, and allied health professions research facilities; and

"(D) the experience of the individual with emerging centers of excellence as defined in section 495E(d)(2).

"(b) DUTIES.—The Board shall—

"(1) advise and assist the Director and the Advisory Council in the preparation of general regulations and with respect to policy matters arising in the administration of this part;

"(2) make recommendations to the Director and the Advisory Council concerning—

"(A) merit review of applications for grants; and

"(B) the amount that should be granted to each applicant whose application, in its opinion, should be approved; and

"(3) prepare an annual report for the Advisory Council, that shall be available to the public, that—

"(A) describes the activities of the Board in the fiscal year for which the report is made;

"(B) describes and evaluates the progress made in such fiscal year in meeting the facilities' needs for the biomedical research community;

"(C) summarizes and analyzes expenditures made by the Federal Government for such activities;

"(D) reviews the approved but unfunded applications for grants; and

"(E) contains the recommendations of the Board for any changes in the implementation of this part.

"(c) TERMS.—

"(1) IN GENERAL.—Each appointed member of the Board shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) STAGGERED TERMS.—Of the initial members appointed to the Board—

"(A) 3 shall hold office for a term of 3 years;

"(B) 3 shall hold office for a term of 2 years; and

"(C) 3 shall hold office for a term of 1 year; as designated by the Director at the time of the appointment.

"(3) REAPPOINTMENT.—No member shall be eligible for reappointment until at least 1 year has elapsed since the end of such member's preceding term.

"(d) COMPENSATION.—Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this title.

"(e) USE OF MEMBERS.—The Director is authorized to use the services of any member or members of the Board, and where appropriate, any member or members of any other national advisory council established pursuant to this title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as the Director may determine appropriate. The Director shall make appropriate provision for consultation between and coordination of the work of the Board and the advisory Council, with respect to matters bearing on the purposes and administration of this part.

"(f) ADMINISTRATION.—The administration of the Board's functions shall be the responsibility of the Director and shall be carried out in the same manner as the administration of the functions of the Advisory Council.

"(g) BOARD ACTIVITIES.—

"(1) IN GENERAL.—In carrying out its functions under this part, the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(2) SUBCOMMITTEES.—Subcommittees established under paragraph (1) may be composed of Board members and nonmember consultants with expertise in the particular area to be addressed by the subcommittees. The subcommittee may hold meetings as determined necessary to enable the subcommittee to carry out its activities.

"SEC. 499E. APPLICATION AND SELECTION FOR GRANTS.

"(a) SUBMISSION.—Applications for grants under this part shall be submitted at least once each year to the Director by interested public and nonprofit private institutions.

"(b) AWARDING OF GRANTS.—A grant under this part may be awarded by the Director if—

"(1) the applicant institution is determined by the Director to be competent to engage in the type of research for which the proposed facility is to be constructed;

"(2) the applicant institution meets the eligibility conditions established by the Director;

"(3) the application contains or is supported by the reasonable assurances that—

"(A) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility; and

"(C) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(4) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

A grant under this part may be made only if the application therefor is recommended for approval by the Advisory Council.

"(c) ELIGIBILITY CONDITIONS.—Within the aggregate monetary limit as the Director may prescribe, applications that, solely by reason of the inability of the applicants to give the assurance required by subsection (b)(2), fail to meet the requirements for applications described in this section, may be approved on condition that the applicants give the assurance required by such paragraph within a reasonable time and on such other reasonable terms and conditions as the Director may determine appropriate.

"(d) AWARDING GRANTS.—

"(1) IN GENERAL.—In acting on applications for grants under this part, the Director shall take into consideration—

"(A) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(B) the quality of the research or training, or both, to be carried out in the facilities involved;

"(C) the need of the institution for such facilities in order to maintain or expand the institution's research and training mission;

"(D) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(E) the age and condition of existing research facilities and equipment.

"(2) INSTITUTIONS OF EMERGING EXCELLENCE.—

"(A) IN GENERAL.—In addition to the considerations required under paragraph (1), the Director shall also consider other criteria for the awarding of grants to eligible institutions that demonstrate emerging excellence in biomedical or behavioral research for the construction of research facilities.

"(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph, an institution shall—

"(i) have a plan for research or training advancement and possess the ability to carry out such plan; and

"(ii)(I) carry out research and research training programs that have a special relevance to a problem, concern, or unmet need of the United States;

"(II) have already demonstrated a commitment to enhancing and expanding the research productivity of the institution; or

"(III) have been productive in research or research development and training in settings where significant barriers to institutional development have been created by—

"(aa) the underrepresentation of minorities in health science careers;

"(bb) the health status deficit of a large segment of the population; or

"(cc) a regional deficit in health care technology, services, or research resources that can adversely affect health status in the future.

"SEC. 499F. AMOUNT OF GRANT; PAYMENTS.

"(a) AMOUNT.—The amount of any grant awarded under this part shall be determined by the Director, except that such amount shall not exceed—

"(1) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(2) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(b) RESERVATION OF AMOUNTS.—On approval of any application for a grant under this part, the Director shall reserve, from any appropriation available therefor, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this subsection may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(c) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this part; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) WAIVER OF LIMITATIONS.—The limitations imposed by subsection (a) may be waived at the discretion of the Director for institutions described in section 499E(d)(2).

"SEC. 499G. RECAPTURE OF PAYMENTS.

"If, not later than 20 years after the completion of construction for which a grant has been awarded under this part—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private institution; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situ-

ated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"SEC. 499H. NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS.

"Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any institution funded under this part.

"SEC. 499I. REGULATIONS.

"Not later than 6 months after the date of enactment of this part, the Director, after consultation with the Advisory Council, shall prescribe regulations concerning the eligibility of institutions for grants awarded under this part, and the terms and conditions applicable to the approval of applications for such grants. The Director may prescribe such other regulations as the Director determines necessary to carry out this part.

"SEC. 499J. PEER REVIEW OF APPLICATIONS.

"(a) IN GENERAL.—The Director shall require appropriate peer review of applications for grants under this part in accordance with section 492.

"(b) MANNER OF REVIEW.—Review of grant applications under this part shall be conducted in a manner consistent with the system of scientific peer review conducted by scholars with regard to applications for grants under this Act for biomedical and behavioral research.

"(c) MEMBERSHIP.—Members of a peer review group established under this section shall be individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions, except that not more than one-fourth of the members of any peer review group shall be officers or employees of the United States.

"SEC. 499K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, \$150,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996."

TITLE II—WOMEN'S HEALTH RESEARCH

SEC. 201. WOMEN'S HEALTH RESEARCH.

Title IV (42 U.S.C. 281 et seq.) is amended—

(1) by redesignating parts F and G as parts G and H, respectively; and

(2) by inserting after part E the following new part:

"PART F—WOMEN'S HEALTH RESEARCH

"Subpart 1—General Provision With Respect to Women's Health

"SEC. 4860. INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH.

"(a) GENERAL REQUIREMENT.—In conducting or supporting clinical research for purposes of this title, the Secretary shall ensure that women and members of minority groups are included as subjects in each project of such research, subject to subsection (b).

"(b) NONAPPLICABILITY.—

"(1) IN GENERAL.—The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(A) is inappropriate with respect to the health of the subjects;

"(B) is inappropriate with respect to the purpose of the research; or

"(C) is inappropriate under such other circumstances as the Secretary may designate.

"(2) CRITERIA.—For purposes of paragraph (1), the Secretary shall by regulation establish criteria regarding the circumstances under which the inclusion of women and minorities in clinical research is inappropriate.

"(c) ANALYSIS OF EFFECT ON WOMEN AND MINORITY GROUPS.—In the case of any project of clinical research in which women or members of minority groups are required under subsection (a) to be included as subjects in the research, and there exists scientific reasons to expect that there may be differences because of such gender or minority status, the Secretary shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d) NOTIFICATION.—Not later than January 1, 1992, the Secretary shall notify appropriate research entities and research grant recipients concerning the requirements of subsections (a), (b), and (c).

"(e) CLINICAL RESEARCH EQUITY SUBCOMMITTEES.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the advisory council of each of the national research institutes a subcommittee to be known as the Clinical Research Equity Subcommittee (hereafter in this subsection individually referred to as a 'Subcommittee').

"(2) DUTIES.—Each Subcommittee shall review all clinical research conducted by the agency for which the advisory council involved is established. The purpose of the review shall be to determine the extent to which the research is being conducted in accordance with subsections (a) through (c). Such a review shall be conducted not less than annually. Not later than 60 days after each such review, each Subcommittee shall submit to the Secretary and the Director of NIH a report describing the finding made as a result of the review.

"(3) COMPOSITION.—Each Subcommittee shall be composed of not less than 6 members of the advisory council involved. The Director of NIH shall designate the membership of each Subcommittee from among members of the advisory council involved who have expertise regarding clinical research on diseases, disorders, or other health conditions—

"(A) that are unique to women, more prevalent in women, or more serious for women; or

"(B) for which the risk factors or interventions are different for women.

"(4) APPOINTMENT OF ADDITIONAL MEMBERS.—If the Secretary determines that an advisory council for a national research institute does not contain a sufficient number of individuals with the expertise required for purposes of paragraph (3), the Director of NIH shall appoint to the advisory council, from among individuals who are not officers or employees of the United States, a number of individuals necessary with respect to complying with such paragraph.

"(5) SUSPENSION OR REVOCATION OF RESEARCH AUTHORITY.—If the Secretary determines that any project of clinical research conducted by any agency of the National Institutes of Health is not being conducted in accordance with subsections (a) through (c), the Secretary shall suspend or revoke the authority for the project under such conditions as the Secretary determines appropriate.

“(f) DEFINITION.—For purposes of this section, the term ‘minority groups’ means racial and ethnic minority groups.

“SEC. 486P. PEER REVIEW REGARDING INCLUSION OF WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH.

“(a) EVALUATION.—In technical and scientific peer review, conducted under section 492 or this part, of proposals for clinical research, the consideration of any such proposal (including the initial consideration) shall, except as provided in subsection (b), include an evaluation of the technical and scientific merit of the proposal regarding the inclusion of women and members of minority groups as subjects in the research.

“(b) EXCEPTION.—Subsection (a) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 492A, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.

“SEC. 486Q. INCLUSION OF WOMEN IN AGING RESEARCH.

“The Director of the Institute on Aging, in addition to other special functions specified in section 444 and in cooperation with the Directors of other National Research Institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.

“Subpart 2—Women’s Health Research

“SEC. 486R. OFFICE OF WOMEN’S HEALTH RESEARCH.

“(a) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institutes of Health, shall establish an Office of Women’s Health Research (hereinafter referred to in this part as the ‘Office’) and provide administrative support and support services to the Director of such Office.

“(b) DIRECTOR.—The Office of Women’s Health Research shall be headed by a Director who shall be appointed by the Director of the National Institutes of Health.

“(c) PURPOSE.—It shall be the purpose of the Office to ensure that research pertaining to women’s health is identified and addressed throughout the research activities conducted and supported by the National Institutes of Health. The Secretary, acting through the Director of the Office, shall—

“(1) establish an intramural research program in gynecology at the National Institute of Child Health and Human Development;

“(2) establish a clinical service in gynecology; and

“(3) develop plans for and establish, not later than January 1, 1994, a Center for Women’s Health Research to support research pertaining to women’s health conditions.

“SEC. 486S. FUNCTIONS OF THE DIRECTOR.

“(a) IN GENERAL.—The Director of the Office of Women’s Health Research shall—

“(1)(A) identify women’s health research needs, including prevention research;

“(B) identify needs for coordinated research activities, especially multidisciplinary research relating to women’s health, to be conducted intra- and extra-murally;

“(C) encourage researchers whose research is funded or supported by the National Institutes of Health to pursue research pertaining to women’s health;

“(D) encourage researchers whose research is funded or supported by the National Insti-

tutes of Health to pursue research into the aging processes of women, with particular emphasis given to menopause; and

“(E) support the development and expansion of clinical trials of treatments, therapies and modes of prevention that include women of all ages, races and ethnicities.

“(2) establish a coordinating council that shall be composed of the Directors of the Institutes, Centers, Offices, and Divisions of the National Institutes of Health, to assist in the duties described in paragraph (1); and

“(3) establish within such Office an advisory committee to be known as the Women’s Health Clinical Research Advisory Committee (hereafter referred to in this section as the ‘Committee.’).

“(b) ADVISORY COMMITTEE.—

“(1) COMPOSITION.—The Committee shall be composed of not less than 12 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Such members shall include physicians, practitioners, scientists, and other women’s health professionals whose clinical practice, and research specialization focus on women’s health and gender differences that affect women’s health.

“(2) DUTIES.—The Committee shall—

“(A) advise the Director of the Office concerning—

“(i) appropriate research activities to be supported by the Office with respect to—

“(I) research on conditions and diseases unique to, more prevalent in, or neglected concerning areas of health relating to women of all ages, ethnicities, and racial groups;

“(II) research concerning gender differences involved in clinical drug trials, with emphasis provided to pharmacological response and side effects resulting from such;

“(III) research concerning gender differences involving disease etiology, course and treatment;

“(IV) research concerning obstetrical and gynecological health, conditions, diseases, and treatment;

“(V) research concerning health conditions relating to women that require a multidisciplinary approach;

“(IV) research concerning the prevention of health conditions that affect women; and

“(VII) the merits of establishing a Center for Women’s Health Research as an independent center within the Office of the Director rather than as a center that is part of an existing Institute;

“(B) report to the Director of the Office on research concerning women’s health that is publicly and privately supported;

“(C) provide recommendations to the Director of the Office regarding the operations of the Office;

“(D) monitor the compliance of all research projects supported or conducted by the National Institutes of Health with laws and regulations relating to the inclusion of women in clinical study populations;

“(E) provide advice to the Director of the National Institutes of Health concerning the manner in which to advance and encourage research on women’s health;

“(F) provide advice to the Director of the National Institutes of Health concerning the merits of establishing the Center for Women’s Health Research as an independent center within the Office of the Director of the National Institutes of Health rather than as a center that is part of an existing Institute;

“(G) request that a study be conducted by the Institute of Medicine of the National Academy of Sciences that could assist in determining the manner in which to remove

obstacles to and advance and encourage research concerning women’s health; and

“(H) make recommendations to the appropriate committees of Congress and to the Director of NIH for further legislative and administrative initiatives, as appropriate for achieving the purposes described in section 486O(c).

“SEC. 486T. REPORT TO THE SECRETARY.

“(a) IN GENERAL.—Not later than January 1, 1992, and biennially thereafter, the Director of the National Institutes of Health shall prepare and submit to the Secretary, a report that shall—

“(1) describe and evaluate the progress made, during the period for which such report is prepared, in research, treatment and prevention with respect to women’s health conducted or supported by the National Institutes of Health;

“(2) summarize and analyze expenditures, made during the period for which such report is made, for activities with respect to women’s health research conducted or supported by the National Institutes of Health;

“(3) contain such recommendations as the Director of the Office of Women’s Health Research considers appropriate; and

“(4) for the initial report, recommend whether the Center for Women’s Health Research should be a free standing intramural center or whether it should be an intramural center attached to an existing Institute.

“(b) SUBMISSION TO CONGRESS.—The Secretary shall provide a copy of the reports submitted under subsection (a) to the appropriate committees of Congress.

“(c) STUDY.—With respect to the study conducted under a request made under section 486R(b)(2)(G), such study shall include an examination of the infrastructure of the Institutes, the grant approval process, the peer review process with regard to the impact of such on women’s health research, the manner in which to increase the number of women in senior level research positions, and a proposed research agenda for biomedical and biobehavioral research on women’s health.

“SEC. 486U. DATA BANK ON WOMEN’S HEALTH AND GENDER DIFFERENCES RESEARCH.

“(a) ESTABLISHMENT OF PROGRAM.—The Director of the National Institutes of Health, after consultation with the Director of the Office of Women’s Health Research and the Board of Regents of the National Library of Medicine, shall establish, maintain, and operate a program to provide information concerning research, treatment, and prevention activities relating to women’s health and gender differences.

“(b) DATA BANK.—

“(1) ESTABLISHMENT.—The Secretary shall establish a data bank to compile information concerning the results of research with respect to women’s health and gender differences that affect women’s health. Such data bank shall be headed by an executive director to be appointed by the Director of the Office of Women’s Health Research.

“(2) CLINICAL TRIALS AND TREATMENTS.—The data bank established under paragraph (1) shall compile information concerning clinical trials and treatments with respect to women’s health and gender differences.

“(3) INFORMATION.—The executive director of the data bank shall make information compiled by the data bank available through existing informational systems that provide access to health care professionals and providers, researchers, and members of the public.

“(4) REGISTRY.—

"(A) IN GENERAL.—The executive director of the data bank shall maintain a registry of ongoing clinical trials of experimental treatments for conditions and diseases unique to, or more prevalent in, health areas concerning women and gender differences, or other health areas that have been neglected with respect to research concerning women or gender differences.

"(B) INFORMATION.—Information to be maintained in the registry under this paragraph shall include—

"(i) eligibility criteria (including sex, age, ethnicity or race) for participating in clinical trials;

"(ii) the location of the clinical trial sites; and

"(iii) any other information determined to be appropriate by the executive director.

"(C) REQUIREMENT TO PROVIDE INFORMATION.—Not later than 21 days after the date on which the Food and Drug Administration approves the application of the sponsor of a clinical trial for an experimental treatment, such sponsor shall provide information concerning the research to be conducted under such clinical trial to the data bank. The data bank shall include information pertaining to the results of such clinical trials of such treatments, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatment.

"SEC. 486V. DEFINITION.

"As used in this part, the term 'women's health research' includes research concerning etiology, diagnosis, prevention, health promotion, treatment, and gender differences of conditions and diseases unique to, more prevalent in, or neglected in all age, ethnic, and racial groups.

"SEC. 486W. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.

"Subpart 3—Research Programs With Respect to Cancer

"SEC. 486X. RESEARCH PROGRAMS ON BREAST CANCER AND CANCERS OF WOMEN'S REPRODUCTIVE SYSTEM.

"(a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The research programs expanded or intensified under subsection (a) concerning breast cancer and cancers of the reproductive system of women shall be coordinated with activities conducted by other National Research Institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

"(c) PROGRAMS FOR BREAST CANCER.—The research programs expanded or intensified under subsection (a) concerning breast cancer shall focus on research efforts undertaken to expand the understanding of the cause of, and to find a cure for, breast cancer. Such programs shall provide for an expansion and intensification of the conduct and support of—

"(1) basic research concerning the etiology and causes of breast cancer;

"(2) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

"(3) prevention and control programs with respect to breast cancer in accordance with section 412;

"(4) information and education programs with respect to breast cancer in accordance with section 413; and

"(5) research and demonstration programs with respect to breast cancer in accordance with section 414, including the development and operation of breast and prostate cancer research centers to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities.

The centers referred to in paragraph (5) should number at least six, should include support for new and innovative research and training programs for new researchers, and should attract qualified scientists and expedite the transfer of research advances to clinical applications.

"(d) IMPLEMENTATION OF BREAST CANCER RESEARCH PROGRAMS.—

"(1) PLAN.—The Director of the Institute shall ensure that the research programs described in subsection (c) are implemented in accordance with a program plan. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9)(A). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(2) SUBMISSION OF PLAN.—Not later than March 1, 1992, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel and shall simultaneously submit a copy of such plan to the Director of NIH, the Secretary, and the appropriate Committees of the Congress.

"(3) REVISIONS.—The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel and shall simultaneously submit such revisions to the Director of NIH, the Secretary, and the appropriate Committees of the Congress.

"(e) OTHER CANCERS.—The research programs expanded or intensified under subsection (a) concerning ovarian cancer and other cancers of the reproductive system of women shall provide for the expansion and intensification of the conduct and support of—

"(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

"(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

"(3) prevention and control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

"(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

"(5) research and demonstration programs with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

"(f) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National

Cancer Institute under the research programs referred to in subsection (a), that shall include—

"(1) a description of the research plan with respect to breast cancer prepared under subsection (d);

"(2) an assessment of the development, revision, and implementation of the research plan with respect to breast cancer;

"(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

"(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

"(5) such comments and recommendations as the Director considers appropriate.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated for the National Cancer Institute under sections 301 and 408, there are authorized to be appropriated \$75,000,000 for fiscal year 1992, of which \$25,000,000 shall be allocated for research under subsection (c)(1), \$25,000,000 shall be allocated for centers, research, and programs under paragraphs (2) through (5) of subsection (c), and \$25,000,000 shall be allocated for research and programs under subsection (e), and such sums as may be necessary for each of the fiscal years 1993 through 1996."

"SEC. 486Y. RESEARCH PROGRAM ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

"(a) ESTABLISHMENT.—The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, in consultation with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee, shall establish and implement a program for the purpose of expanding and intensifying research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996."

SEC. 202. EFFECTIVE DATE AND APPLICABILITY OF REQUIREMENTS.

(a) EFFECTIVE DATE.—The amendment made by section 201 shall apply to research proposals considered after January 1, 1992.

(b) APPLICABILITY.—The amendment made by section 201 shall apply with respect to any project of clinical research whose initial approval by the Secretary of Health and Human Services occurs after the expiration of the 90-day period beginning on the effective date of this Act.

TITLE III—CONTRACEPTION AND INFERTILITY

SEC. 301. CONTRACEPTION AND INFERTILITY.

(a) RESEARCH CENTERS WITH RESPECT TO CONTRACEPTIONS AND RESEARCH CENTERS WITH RESPECT TO INFERTILITY.—Subpart 7 of part C of title IV (42 U.S.C. 285g et seq.) is amended by adding at the end thereof the following new section:

"SEC. 452A. RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants

to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of diagnosing and treating infertility.

"(b) NUMBER OF CENTERS.—In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c) DUTIES.—

"(1) IN GENERAL.—Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and by females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in both males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals.

"(2) STIPENDS AND FEES.—A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) COORDINATION OF INFORMATION.—The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) CONSORTIUM.—Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Secretary, after consultation with the Director of the Institute.

"(f) TERM OF SUPPORT AND PEER REVIEW.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended for one or more additional periods of not to exceed 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended."

(b) LOAN REPAYMENT FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Part G of title IV (42 U.S.C. 288 et seq.) (as redesignated by section 205) is amended by inserting after section 487A the following new section:

"SEC. 487B. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) ESTABLISHMENT.—The Secretary, after consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program to enter into agreements with appropriately qualified health professionals (including graduate students) under which such health

professionals shall agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Secretary agreeing to repay, for each such service, not to exceed \$20,000 of the principal and interest of the educational loans incurred by such health professionals.

"(b) ADMINISTRATIVE PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in such subsection to the same extent and in the same manner as such provisions apply to the National Service Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section and section 452A, there are authorized to be appropriated \$20,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated."

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1991, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—PROGRAMS RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 401. LOAN REPAYMENT PROGRAM WITH RESPECT TO RESEARCH AT NATIONAL INSTITUTES OF HEALTH.

(a) MINIMUM PERIOD OF SERVICE.—Section 487A(a)(2)(B) (42 U.S.C. 288-1(a)(2)(B)) is amended—

(1) by inserting "(1)" after the subparagraph designation;

(2) by striking out the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 487A(c)(1) (42 U.S.C. 288-1(c)(1)) is amended by striking out "1991" and inserting in lieu thereof "1996".

SEC. 402. RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Title XXIII (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research that should be given priority with respect to preventing and treating opportunistic cancers and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of treatments for opportunistic cancers and infectious diseases";

(3) in subsection (c) of section 2313—

(A) by amending the subsection heading to read as follows: "PARTICIPATION OF PRIVATE INDUSTRY, SCHOOLS OF MEDICINE AND PRIMARY PROVIDERS"; and

(B) by striking out "schools of medicine and osteopathic medicine" and inserting in lieu thereof "schools of medicine, osteo-

pathic medicine, and existing consortia of primary care providers organized to conduct clinical research concerning acquired immune deficiency syndrome";

(4) in subsection (e) of section 2313—

(A) by striking out "1991" in paragraph (1) and inserting in lieu thereof "1996"; and

(B) by striking out "1991" in paragraph (2) and inserting in lieu thereof "1996";

(5) in section 2315—

(A) by striking out "international research" in subsection (a)(2) and all that follows through the period and inserting in lieu thereof "international research and training concerning the natural history and pathogenesis and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome, opportunistic infections and other emerging microbial diseases."; and

(B) by striking out "and 1991" in subsection (f) and inserting in lieu thereof "through 1996";

(6) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", after consultation with the Administrator for Health Care Policy and Research."; and

(ii) by striking out "syndrome" and inserting in lieu thereof "syndrome, including treatment and prevention of HIV infection and related conditions among women";

(B) in subsection (b), by inserting "and treatment" after "prevention"; and

(C) in subsection (e), by striking out "1991" and inserting in lieu thereof "1996";

(7) in section 2320(b)(1)(A), by striking out "syndrome" and inserting in lieu thereof "syndrome and the natural history of such infection"; and

(8)(A) in section 2351(a)—

(i) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) shall develop and implement a comprehensive plan for the conduct and support of such research by the agencies of the National Institutes of Health, which plan shall specify the objectives to be achieved, the target date by which the objectives are expected to be achieved, and an estimate of the resources needed to achieve the objectives by such date; and

"(B) shall develop and implement a plan for evaluating the sufficiency of the plan developed under subparagraph (A) and for evaluating the extent to which activities of the National Institutes of Health have been in accordance with the plan"; and

(B) in section 2301(b)(6), by inserting before the semicolon the following: ", including evaluations conducted under section 2351(a)(2)(B)".

SEC. 403. STUDIES.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) CONTRACT FOR STUDY.—The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) INSTITUTE OF MEDICINE.—The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such

Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) **THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.**—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the policies of third-party payers regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) **ADVISORY COMMITTEES.**—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

TITLE V—NIH DIRECTOR'S DISCRETIONARY FUND, CHILD HEALTH RESEARCH CENTERS, AND INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

SEC. 501. NIH DIRECTOR'S DISCRETIONARY FUND.

Section 402 (42 U.S.C. 282) is amended by adding at the end thereof the following new subsection:

“(g)(1) The Director shall have a Director's discretionary fund that may be used—

“(A) to correct imbalances, to be more responsive to new issues and scientific emergencies, and to act on research opportunities of high-priority;

“(B) to support research that does not fit clearly into the research assignment of any existing Institute; and

“(C) for such other purposes, including the purchase or rental of equipment and space, as the Director determines appropriate.

“(2) There are authorized to be appropriated for the fund established under paragraph (1), \$25,000,000 in fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.”

SEC. 502. CHILD HEALTH RESEARCH CENTERS.

Subpart 7 of part C (42 U.S.C. 285g et seq.) (as amended by section 301) is further amended by adding at the end thereof the following new section:

“SEC. 452B. CHILD HEALTH RESEARCH CENTERS.

“The Director of the Institute shall develop and support centers that will build the research capacity of pediatric institutions and develop pediatric investigators, thereby speeding the transfer of advances from basic science to clinical applications and improving the care of infants and children.”

SEC. 503. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

Part B of title IV (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 409. INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

“(a) **IN GENERAL.**—The Director of NIH shall establish a comprehensive program to conduct and support basic and clinical research on trauma (hereafter in this section referred to as the ‘Program’). The Program

shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

“(b) PLAN FOR PROGRAM.—

“(1) **IN GENERAL.**—The Director of NIH, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program. All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

“(2) **SUBMISSION TO CONGRESS.**—The Director of NIH shall submit to the Congress the plan required in paragraph (1) not later than April 1, 1992, together with an estimate of the funds needed for each of the fiscal years 1993 through 1995 to implement the plan.

“(c) **PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.**—The Director of NIH—

“(1) shall provide for the conduct of activities under the Program by the Directors of each of the National Research Institutes and agencies of the National Institutes of Health involved in research with respect to trauma;

“(2) shall ensure that the activities of the Program are coordinated among the institutes and agencies referred to in paragraph (1); and

“(3) shall, as appropriate, provide for collaboration among the institutes and agencies referred to in paragraph (1) in carrying out such activities.

“(d) **CERTAIN ACTIVITIES OF PROGRAM.**—The Program shall include—

“(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

“(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

“(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

“(e) **MECHANISMS OF SUPPORT.**—In carrying out the Program, the Director of NIH may make grants to public and nonprofit private entities, including designated trauma centers.

“(f) **RESOURCES.**—The Director of NIH shall assure the availability of appropriate resources to carry out the Program.

“(g) COORDINATING COMMITTEE.—

“(1) **IN GENERAL.**—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the ‘Coordinating Committee’).

“(2) **DUTIES.**—The Coordinating Committee shall make recommendations regarding—

“(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

“(B) effective collaboration among the agencies in carrying out the activities.

“(3) **COMPOSITION.**—The Coordinating Committee shall be composed of the Directors of each of the National Research Institutes and agencies of the National Institutes of Health involved in research with respect to trauma, and any other individuals who are practitioners in the trauma field as determined by the Director of NIH. The Director of NIH shall serve as the chairperson of the Committee.

“(h) **DEFINITIONS.**—For purposes of this section:

“(1) The term ‘designated trauma center’ has the meaning given such term in section 1231(1).

“(2) The term ‘trauma’ means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.”

TITLE VI—NATIONAL CENTER FOR HUMAN GENOME RESEARCH

SEC. 601. PURPOSE OF CENTER.

Title IV is amended—

(1) in section 401(b)(2), by adding at the end thereof the following new subparagraph:

“(E) The National Center for Human Genome Research.”; and

(2) in part E, by adding at the end the following new subpart:

“Subpart 4—National Center for Human Genome Research

“SEC. 485B. PURPOSE OF THE CENTER.

“The general purpose of the National Center for Human Genome Research established within the National Institutes of Health (hereafter in this subpart referred to as the ‘Center’) is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

“(1) planning and coordinating the research goal of the genome project;

“(2) reviewing and funding research proposals;

“(3) developing training programs;

“(4) coordinating international genome research;

“(5) communicating advances in genome science to the public; and

“(6) reviewing and funding proposals to address the ethical issues associated with the genome project.”

TITLE VII—DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

SEC. 701. SILVIO CONTE SENIOR BIOMEDICAL RESEARCH SERVICE.

Section 228(a) of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101-509, is amended to read as follows:

“(a)(1) There shall be in the Public Health Service a Silvio Conte Senior Biomedical Research Service, not to exceed 750 members.

“(2) The authority established in paragraph (1) regarding the number of members in the Silvio Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio Conte Senior Biomedical Research Service (hereafter in this section referred to as the ‘Service’).”

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. PAPERWORK REDUCTION.

Section 465(d)(2) (42 U.S.C. 286(d)(2)) is amended—

(1) by striking out “Rules” and inserting in lieu thereof “Notwithstanding any other provision of law, rules”;

(2) in subparagraph (B), by striking out “or” at the end thereof;

(3) in subparagraph (C), by striking out the period and inserting in lieu thereof “; or”; and

(4) by adding at the end thereof the following new subparagraph:

“(D) under licensing arrangements that provide for quality control and full recovery of access costs.”.

SEC. 802. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

Section 162 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended in subsection (1), by striking out “18 months” and inserting in lieu thereof “24 months”.

SEC. 803. TRANSFER OF PROVISIONS.

(a) IN GENERAL.—Section 12 of the Health Research Extension Act of 1985 (42 U.S.C. 285e-2 note) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et. seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F (42 U.S.C. 285e-8).

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriations Acts for the purpose of carrying out the Program transferred by subsection (a) to the Public Health Service Act, such subsection shall not be construed to affect the availability of such funds for such purpose.

(c) TECHNICAL AMENDMENT.—Section 445G(a) of such Act (as so redesignated) is amended by striking out “and its incidence in the United States”.

SEC. 804. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) (42 U.S.C. 241(b)(4)) is amended by striking out “an annual” and inserting in lieu thereof “a biennial”.

SEC. 805. NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.

Section 446 (42 U.S.C. 285(f)) is amended by inserting before the period the following: “, including tropical diseases”.

SEC. 806. GENERAL PROVISIONS.

Section 405 (42 U.S.C. 284) is amended—

(1) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A) of paragraph (1)—

(i) by striking out “human diseases” and inserting in lieu thereof “human disease”;

(ii) by striking out “for which the national research institutes were established”; and

(iii) by inserting “and agency of the National Institutes of Health” after “each national research institute”;

(B) in subparagraph (K), by striking out “and” at the end thereof;

(C) in subparagraph (L), by striking out the period and inserting in lieu thereof “; and”;

(D) by adding immediately after subparagraph (L) the following new subparagraph:

“(M) may, notwithstanding any other provision of law, in disseminating information pursuant to this section and other laws, enter into licensing agreements that provide for quality control and the full recovery of access costs.”; and

(E) by adding at the end thereof the following new sentence: “For purposes of Federal income, estate, and gift taxes, any gift accepted under subparagraph (H) shall be considered to be a gift or transfer to the United States.”;

(2) in the matter preceding subparagraph (A) of subsection (b)(2), by inserting “and agency of the National Institutes of Health” after “research institute”; and

(3) in subsection (c)—

(A) by inserting “and agency of the National Institutes of Health” after “national

research institute” in the matter preceding paragraph (1);

(B) by inserting “or agency” after “institute” in paragraph (1); and

(C) in paragraph (2)—

(i) by inserting “and agencies” after “institutes”; and

(ii) by inserting “or agency” after “institute”.

THE NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION ACT OF 1991

SUMMARY

Amends the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health and makes additional provisions as follows:

1. National Cancer Institute

Authorizes \$2.09 billion for FY 1992 and such sums as are necessary for FY 1993-1996. This includes \$75 million for a new research program on breast cancer and other gynecologic cancers.

Authorizes \$156.6 million for cancer control programs at NCI for FY 1992 and such sums as are necessary for FY 1993-1996.

2. National Heart, Lung, and Blood Institute

Authorizes \$1.5 billion for FY 1992 and such sums as are necessary for FY 1993-1996.

Authorizes \$151.5 million for prevention and control programs at NHLBI for FY 1992 and such sums as are necessary for FY 1993-1996.

Expands the National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program to include support for training and education.

3. National Library of Medicine

Authorizes \$40 million for the Medical Library Assistance Act Programs (MLAA) for FY 1992 and such sums as are necessary for FY 1993-1996. Expands the MLAA programs to support grants on new educational technologies. Removes the cap on certain grants administered by the NLM. Transfers authority for a national information center on health services research and health care technology from the Agency for Health Care Policy and Research to the NLM.

4. National Research Service Awards

Authorizes \$415 million for FY 1992 and such sums as are necessary for FY 1993-1996. Provides that grants may be made for comprehensive programs to recruit women, underrepresented minorities, and individuals from disadvantaged backgrounds into biomedical or behavioral research.

5. National Center for Biotechnology Information

Authorizes \$15 million for FY 1992 and such sums as are necessary for FY 1993-1996.

6. National Foundation for Biomedical Research

Extends the authorization for the Foundation to 1996.

7. Biomedical and behavioral research facilities

Creates an extramural grants program to be located in the NIH Center for Research Resources. Authorizes \$150 million for 1992 and such sums as are necessary for FY 1993-1996. Public and nonprofit research institutions may apply for merit-based, matching grants to expand or renovate existing research facilities or to construct new facilities.

8. Women's health research

Requires the inclusion of women and minorities as subjects in clinical research conducted or supported by NIH and ADAMHA. Provides statutory authority for the Office for Women's Health Research, already estab-

lished administratively at NIH, to ensure that research pertaining to women's health is identified and addressed throughout NIH. A Center for Women's Health Research is to be established by 1994.

A Women's Health Clinical Research Advisory Committee is provided for, as is a data bank on women's health research. Requires the Director of the National Institute on Aging to conduct research into the aging processes of women.

Establishes a research program on breast cancer and cancers of the reproductive system of women. Authorizes \$75 million for 1992 and such sums as are necessary for FY 1993-1996.

Establishes a research program on osteoporosis, Paget's disease, and related bone disorders. Authorizes \$40 million for 1992 and such sums as are necessary for FY 1993-1996.

9. Contraception and infertility

Creates a program within the National Institute of Child Health and Human Development to support five centers for research and training on contraception and infertility. A loan repayment program is authorized to repay educational loans of health professionals who agree to conduct research on contraception or infertility.

10. Acquired Immune Deficiency Syndrome

Expands the authority of the AIDS Advisory Committee of the National Institute of Allergy and Infectious Diseases (NIAID) to make recommendations on opportunistic infections and cancers. Directs the NIH's clinical evaluation units to conduct trials of treatments of opportunistic infections and cancers.

Requires the Secretary, acting through the NIH Director, to develop and implement a comprehensive plan for AIDS activities and the evaluation of such activities.

Reauthorizes the program to repay the educational loans of health professionals who agree to conduct research at NIH with respect to AIDS. Requires that the Secretary provide for three studies on drug development and approval, and reimbursement for care provided in clinical trials. Reauthorizes until 1996 the programs that support the conduct of community-based clinical trials of investigational therapies, the efforts to promote international research on AIDS vaccines and treatments, and the development of model protocols for the clinical care of AIDS patients.

11. Director's Discretionary Fund

Authorizes \$25 million for a discretionary fund, to allow the Director to respond to new needs, opportunities, or emergencies.

12. Child Health Research Centers

The Child Health Research Centers program within the National Institute of Child Health and Human Development, is given statutory authority to support centers for research with respect to child health.

13. Interagency Program for Trauma Research

Establishes a comprehensive program of basic and clinical research on trauma. Creates a Trauma Research Interagency Coordinating Committee to establish and implement the program.

14. National Center for Human Genome Research

The Center, already established administratively at NIH, is given statutory authority to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes.

15. *Silvio Conte Senior Biomedical Research Service*

Designates the Senior Biomedical Research Service in honor of Silvio Conte and raises the limit on the number of members.

MISCELLANEOUS PROVISIONS

16. *Paperwork reduction*

Exempts the National Library of Medicine and other programs at NIH from certain provisions of the Paperwork Reduction Act that would preclude them from existing quality control and recovering access costs.

17. *National Commission on Sleep Disorders Research*

Extends for six months the deadline for submission of the Commission's final report.

18. *Alzheimer's disease registry*

Transfers the provisions establishing the Registry from the Health Research Extension Act of 1985 to the Public Health Service Act.

19. *Biennial report on carcinogens*

Provides that the annual report on carcinogens be made a biennial report.

20. *National Institute of Allergy and Infectious Diseases*

Provides that research on tropical diseases be added to the mission statement of NIAID.

Mr. ADAMS. Mr. President, I rise today to join the chairman of the Senate Labor and Human Resources Committee, Senator KENNEDY, as an original cosponsor of the National Institutes of Health [NIH] reauthorization bill. I want to thank the chairman for working with me and Senators MIKULSKI and HARKIN during the past year to see that this bill redresses the gender bias that exists at our Nation's leading research institutes.

The sad truth is that women's health care in this country is not taken as seriously as men's. This is especially true in the area of medical research. Less than 1 year ago, the General Accounting Office found that NIH—which pays for most of this Nation's health research—had failed miserably to implement a policy that would encourage researchers who apply for grants to include women in their studies. In fact, at the time, the NIH policy said that the inclusion of women should not be a consideration of the scientific merit of the grant application.

The American Medical Association pointed out recently that women are likely to receive inadequate health treatment for such conditions as cardiovascular disease because diagnostic and treatment protocols are based on studies done in men. In fact, the two most recent clinical trials in the area of heart disease included 15,000 and 22,000 men and no women. It will be years—if at all—before clinical trials of this magnitude can be done with women.

We must correct this problem. By incorporating my bill, the Clinical Trials Fairness Act, into this year's reauthorization bill as we did last year, NIH will be required to see that women are included in all clinical trials except where it is found to be scientifically in-

appropriate. Essentially, this legislation would codify existing NIH policy and establish an oversight mechanism to ensure that it is carried out. This step is necessary because the GAO found that NIH had poorly implemented its 1986 policy to encourage its researchers to include women in clinical trials, and had neglected to even issue guidelines 3 years after the policy had been promulgated.

Mr. President, including women in clinical trials is just one of the ways we can begin to redress the gender bias in our health research today. Another, and equally important avenue is to increase attention—and funding—on diseases and conditions specific to women, like breast and ovarian cancer, osteoporosis, and menopause. This bill makes a significant contribution in this area. I would like to thank the chairman for including three provisions I have recommended that I believe will go a long way toward achieving parity in women's health research: First, the bill requires that the National Institutes on Aging, in cooperation with other institutes, conduct research into the aging process of women with particular emphasis on menopause; second, this year's reauthorization would increase funding for breast and other cancers affecting women by \$75 million; and third, the bill would provide \$40 million for increased research on osteoporosis.

This last year, as chairman of the Senate Aging Subcommittee, I held a series of hearings on the health status of midlife and older women. What I found was shocking. Although women today can expect to spend more than one third of their lives in a postmenopausal state, little attention or resources have been directed at this critical life stage. Menopause and the loss of ovarian hormones plays an important role in the development of diseases and conditions affecting women, yet the United States has no public health policy regarding hormone replacement therapy, a common form of medication for menopausal symptoms and the prevention of osteoporosis. In fact, there appears to be little consensus about hormone replacement therapy and questions remain about how and when HRT should be given, who can or can't take the drug, at what dose should it be prescribed, for how long it should be taken, for how long it is effective, when it is unsafe, and whether there are other nonpharmacological interventions that can receive the same or better results?

I also found that the increasing rate of breast cancer in this country has become truly epidemic. Last year, the American Cancer Society reported that 1 in 10 women would be diagnosed with breast cancer. This year that figure is 1 in 9. That means that 175,000 women will develop breast cancer an increase of over 33 percent since 1980. And it is

estimated that 44,500 of these women will die from the disease. In fact, the mortality rate for breast cancer has not improved significantly since 1930. Yet, despite the improvement in treating other cancers, we still don't know or understand what causes breast cancer, how to cure it, or why the incidence rates have increased so significantly.

We also know very little about preventing osteoporosis and the debilitating fractures that too often result when osteoporosis is untreated. Despite the enormous personal cost of this disease to women and their families, as well as to the health care system, we lack critical information about the size of the population; who is most at risk; who can be treated with approved medications; and what other drugs or nonpharmacological approaches can help prevent the disease?

Women deserve the answers to these questions. And this bill will require that NIH intensify and expand its research effort in these areas: Breast and ovarian cancer, osteoporosis, and menopause. Most important, we have provided the resources to make sure that this critical research can take place. The bill includes \$25 million for basic breast cancer research to understand the cause of breast cancer and to find a cure; \$25 million to establish at least six breast cancer centers to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention, and treatment research; \$25 million for research of ovarian cancer and other cancers of the reproductive system; and \$40 million for research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

This reauthorization is a historic one. It makes research on women's health a top priority of the NIH. American women have been at risk long enough. It is time to close the health care gap that exists for women today and this bill will take us closer to that goal.

I look forward to working with the chairman to see that this bill is adopted by the Senate quickly.

Mr. HARKIN. Mr. President, I rise to express my support for the National Institutes of Health Reauthorization Act of 1991. I am pleased to join my distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY in sponsoring this important health legislation. Senator KENNEDY, long-time leader for improved biomedical research, has once again fashioned a strong and responsible package of initiatives that will move us forward in searching out causes, treatments and preventive strategies for health problems affecting so many Americans.

Mr. President, I am particularly pleased that the provisions of S. 966, the Contraceptive and Infertility Re-

search Centers Act of 1991, have been included in the bill being introduced today. This proposal, which I introduced along with Senators PACKWOOD, HATFIELD, MIKULSKI, SIMON, CRANSTON, and LIEBERMAN, would provide specific authorization for the establishment of three research centers focused on developing improved methods of contraception and two research centers focused on developing better diagnosis and treatment of infertility. As a method of addressing the shortage of qualified researchers in these areas, a loan repayment program for graduate students or health professionals who agree to conduct research on contraception and infertility.

There is a tremendous need for these research centers. Infertility and contraception are central concerns to millions of Americans of child-bearing age. While the United States is without question the world leader in biomedical research, we have lagged behind a number of industrialized nations in the world when it comes to research and development in the areas of infertility and contraception. This is a common sense approach to the growing problems of infertility and unplanned pregnancies.

The initial work by NICHD to develop the centers has been very promising. And I was very heartened to learn from Dr. Healy of her strong support for this effort. It is tremendously important that we assure continuity to this effort begun by the fiscal year 1991 appropriations. This legislation would do much to assure needed continuity and support.

Mr. President, I am also very pleased that other important portions of the Women's Health Equity Act have been included in this reauthorization measure. Enactment and effective implementation of these provisions should put an end to some areas of gender bias at the National Institutes of Health [NIH], including the proportion of women and minorities participating in NIH sponsored clinical trials, the number of research projects and clinical programs focused on women's health issues, and the number of women in higher level positions at the NIH. I want to especially commend my colleagues on the Labor Committee, Senators MIKULSKI and ADAMS, for their leadership in this critical area.

We must greatly intensify our national research efforts in a number of important areas related to women's health. In particular, I am pleased that this legislation would authorize an expansion of support in the areas of breast, cervical and ovarian cancer and osteoporosis. These diseases take a tremendous toll on American women each day. We have to do much more to expand research and improve prevention of these killers. I am pleased that an additional funding has been provided in the fiscal year 1992 appropriations bill

to NIH [NCI] to support these priority areas.

I look forward to working with my colleagues to assure that this legislation is appropriately considered and approved.

ADDITIONAL COSPONSORS

S. 141

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Nevada [Mr. REID], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 155

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. WALLOP] was added as cosponsor of S. 155, a bill to amend the Internal Revenue Code of 1986 to eliminate Intangible Drilling Costs as Preference Items in the Alternative Minimum Tax.

S. 523

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUE] was added as cosponsor of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

S. 855

At the request of Mr. GLENN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 855, a bill to amend the act entitled "An act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war."

S. 878

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] 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. 902

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 902, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 903

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. DASHCLE] was added as a cosponsor of S. 903, a bill to create a children's security trust fund that may be deposited and utilized to expand certain Federal programs that provide as-

sistance to children, and for other purposes.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 904, a bill to provide for the establishment of a children's vaccine initiative, and for other purposes.

S. 905

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 905, a bill to amend title XIX of the Social Security Act to improve the childhood immunization rate by providing for coverage of additional vaccines under the Medicaid Program and for enhanced Federal payment to States for vaccines administered to children under such Program, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1003

At the request of Mr. GLENN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1003, a bill to provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1239

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1239, a bill to preserve jobs in the aircraft industry by amending the Internal Revenue Code of 1986 to repeal the luxury excise tax on aircraft.

S. 1245

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and

other similar intangible items are amortizable.

S. 1259

At the request of Mr. AKAKA, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1259, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act".

S. 1329

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1329, a bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes.

S. 1330

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1330, a bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes.

S. 1399

At the request of Mr. MITCHELL, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1399, a bill to establish a program to provide Soviet graduate students with scholarships for study in the United States.

S. 1410

At the request of Mr. PRESSLER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1410, a bill relating to the rights of consumers in connection with telephone advertising.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from Nevada [Mr. REID], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1444

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1444, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles.

S. 1463

At the request of Mr. BREAUX, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Texas [Mr. BENTSEN], the Senator from Texas [Mr. GRAMM], and the Senator from California [Mr. SEYMOUR] were

added as cosponsors of S. 1463, a bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes.

S. 1466

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1466, a bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Utah [Mr. HATCH], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 170

At the request of Mr. DOLE, the names of the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. DECONCINI], the Senator from Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. DODD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Georgia [Mr. FOWLER], the Senator from Georgia [Mr. NUNN], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. INOUE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Florida [Mr. MACK], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Maryland [Mr. SARBANES], the Senator from California [Mr. SEYMOUR], the Senator from Alabama [Mr. SHELBY], the Senator from New Hampshire [Mr. SMITH], the Senator from Wyoming [Mr. WALLOP], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 170, a joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing the display of the National League of Families POW/MIA flag on flagstaffs at certain Federal facilities.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin

[Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 27, a concurrent resolution urging the Arab League to terminate its boycott against Israel, and for other purposes.

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. DECONCINI, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Concurrent Resolution 45, a concurrent resolution to express the sense of the Congress that the President should consider certain factors in 1992 before recommending extension of the waiver authority under section 402(c) of the Trade Act of 1974 with respect to the U.S.S.R.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 156—RELATIVE TO PAYMENT OF CERTAIN LEGAL EXPENSES

Mr. FORD (for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 156

Resolved, That (a) the Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate, legal expenses associated with the employment of private counsel to represent, subject to subsection (b), any present or former employee of the Senate on the staff of Senator D'Amato, with respect to official actions and responsibilities of such employees while on the staff of Senator D'Amato, in connection with testimony before the grand jury in United States District Court for the Eastern District of New York.

(b) The employees to be covered by such representation, and the amount of legal expenses to be paid, shall be determined by the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

UNITED STATES-CHINA ACT

BINGAMAN AMENDMENT NO. 802

Mr. BINGAMAN proposed an amendment to the bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, as follows:

On page 4, between lines 23 and 24, insert the following:

(10) The United States has failed to use existing laws and other means to respond to, prevent, or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(1) The Government of the People's Republic of China is engaging in unfair trade practices against the United States which are unreasonable and discriminatory and burden and restrict United States commerce by failing to protect intellectual property rights, raising tariffs, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

On page 5, between lines 11 and 12, insert the following new section:

SEC. 3. PRESIDENTIAL ACTION.

The President is directed to take the following actions with respect to the People's Republic of China's human rights violations, weapons proliferation, and unfair trade practices:

(1) Interact more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

(2) Encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning the People's Republic of China's missile transfers to other countries.

(3) Direct the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States Commerce.

(4) Encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage the Human Rights Commission to issue such a report.

(5) Take any other action the President deems advisable to achieve the purposes of this Act.

Redesignate sections 3 through 5 as sections 4 through 6, respectively.

On page 7, line 5, strike "and".

On page 7, between lines 5 and 6, insert the following:

(G) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict United States commerce by failing to protect intellectual property rights, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries, and

On page 7, line 6, strike "(G)" and insert "(H)".

ADDITIONAL STATEMENTS

ADA TECHNOLOGIES, INC.: A COMPANY MADE POSSIBLE BY THE SBIR PROGRAM

● Mr. WIRTH. Mr. President, I would like to address for a few moments the subject of recent advancements in our ability to control air pollution, and the contribution which ADA Technologies, Inc., and the Small Business Innovation Research [SBIR] Program have made to this effort. The passage of the Clean Air Act Amendments of 1990 has created a renewed impetus for developing new methods to solve our air pollution problem. ADA Technologies, Inc., a small Colorado company, has answered this call, and is hard at work developing products that will help control emissions from coal-burning powerplants.

ADA Technologies, Inc., was established in 1985 through the Small Business Innovation Research [SBIR] Program. This program, which is scheduled for reauthorization next year, is designed to provide small businesses with the funding required to research, develop, and market new technologies. During its 10-year existence, time after time, the SBIR program has proven its value.

Without funding from the SBIR Program, small companies such as ADA Technologies would be unable to afford the enormous initial expenses of research, development, and marketing of their prototypes. Without SBIR, important research would just not be taking place. ADA's valuable discoveries include new equipment which controls the fine dust emissions from coal-burning powerplants, and a new analyzer which allows emissions of ammonia, nitric oxide, and sulfur dioxide from powerplants to be measured on a real-time basis, rather than with the traditional delay of laboratory testing. Technologies such as these, serving to protect our clean air, could not have been developed without SBIR funds.

Mr. President, future developments in air and environment preservation depend in part on small innovative companies like ADA Technologies, Inc. These companies will need funds from the Small Business Innovation Research Program to make their ideas a reality. For this reason, it is my hope that Congress will reauthorize the SBIR Program next year. I ask to include an article on this subject which appeared in the Denver Post, immediately following my remarks, and I thank the Chair.

The article follows:

WANTED: EMPLOYEES WHO PREFER TO TAKE TIME TINKERING WITH THINGS

(By Janet Day)

ADA Technologies Inc. rejected a recent job applicant because she admitted taking her bike to a repair shop rather than fixing it herself.

Picky? Maybe, company officials said, but in the highly competitive field of technology development, they need to make sure that they hire employees who like to tinker with things or take them apart just to see how to make them better.

"Our people have to enjoy a challenge, enjoy solving puzzles, fixing cars or bicycles or just twiddling with things," said Judith Armstrong, company president.

The 6-year-old firm in the Inverness office park in southern Arapahoe County spends all of its time tinkering with things, and, in the process, reducing the nation's air-pollution problem.

ADA Technologies makes equipment to control pollutants from coal-burning power plants.

Its newest effort, announced last month, is an analyzer that allows power plants to measure ammonia, nitric oxide and sulfur dioxide emissions on a real-time basis rather than waiting for lab results. The company also has developed new technology for the baghouses used to control very fine dust emissions at power plants.

The company now has 22 engineering employees, a third of them with doctoral degrees. But they're not ivory-tower elitists, Armstrong insists.

"What separates us from the competition is that we're oriented toward field work and not just paper studies," she said. "We hire people with experience at utilities, so they are trusted by blue-collar employees as well as at the white-collar level. They can walk into a plant and assure the workers that we're not going to break their equipment."

Armstrong started the company with her husband, James Armstrong, who's vice president of operations, and Michael Durham, vice president of research and technology. In 1985, they realized that the growth of personal computers offered vast opportunities for development of new technologies.

They won some Small Business Administration research awards and have grown from there.

Clients include Public Service Co. of Colorado, the southern California air-quality district, the U.S. Environmental Protection Agency, Electric Power Research Institute, NASA, the Army, Navy and Air Force.

Armstrong doesn't expect the company to veer far from the cutting edge of pollution-control technology in the future. The next step after air pollution may be in waste minimization and toxic-waste incineration equipment.

The privately held company reported \$1.8 million in sales last year and expects to have more than \$3 million in sales this year. ●

HONORING TONY OLIVA

● Mr. DURENBERGER. Mr. President, on Sunday July 14, 1991, the Minnesota Twins honored one of their greatest baseball players when they retired Tony Oliva's No. 6. Tony now joins former teammates Harmon Killebrew and Rod Carew as the only Twins so honored.

Tony spent his first full season in the majors in 1964 and led the American League in batting with a .323 average. He also collected 217 hits, 32 home runs, and 109 runs scored as he completed one of the most remarkable rookie seasons ever. These numbers earned Tony the 1964 American League Rookie of the Year Award.

The next year, Tony became the only player in major league history to win back-to-back batting titles in his first two seasons in the majors. He batted .321 and continued his stellar run production with 98 RBI's and 107 runs scored. From 1964 to 1970 Tony proved to be one of the most consistent players in baseball averaging 22 home runs and 91 RBI's a year.

Oliva retired in 1976 after spending a total of 15 seasons with the Twins. He left the diamond with a .304 lifetime batting average, 220 home runs, 3 American League batting titles, and a string of 8 consecutive All-Star team selections. In addition, Tony also holds Twins' records for most seasons played, 15; doubles, 329; extra base hits in a season, 84 in 1964; total bases in a season, 374 in 1964; and consecutive hits.

Tony's contribution to baseball did not end with his retirement from the playing field. Since he left active duty, "Tony O" has served as a first-base coach, batting coach, minor-league manager, and Mexican League manager. His influence and presence has been felt by current major league stars such as Kirby Puckett, Tom Brunansky, Gary Gaetti, and Kent Hrbek. Perhaps Tony said it best when he stated, "You feel good knowing that you've helped guys like Puckett, Hrbek, and Gaetti since they were in the minor leagues. I've seen them go on to become a success and that makes me very happy."

Mr. President, again I congratulate Tony Oliva on his many accomplishments and I thank him for allowing the baseball fans of Minnesota to be part of his marvelous career.●

CAPTIVE NATIONS WEEK

● Mr. SIMON. Mr. President, this week marks the 32d commemoration of Captive Nations Weeks, recognizing the people of oppressed nations around the world and their courageous quest for freedom.

Since Captive Nations Week became law in 1958, much has changed in our world. The cold war is over; the United States and the Soviet Union have reached arms control agreements and the face of communism has changed. With these changes our view of Captive Nations Week needs to change. Today we face the problem of people within certain countries being denied their freedoms. The Soviet Union, China, Iraq, Cuba, and South Africa still do not allow universal and free elections, and the rule of law is not practiced. We ought to direct our efforts to encourage freedom for people in all countries, and in all parts of each country.

I welcome the Soviet withdrawal from Eastern Europe and the commitment of countries like Poland, Hungary, and Czechoslovakia to establishing pluralistic societies and free-market economies. But the Soviet Union

has still not satisfactorily addressed the problems within their own country, and continues to illegally occupy the three Baltic States. The recent attack on a Lithuanian communications center was another example of Soviet unwillingness to let these nations go. The Ukraine, Armenia, Georgia, and other republics have also been rebuffed by the Soviet Central Government in their efforts to seek additional freedoms.

Other regions of the world are not free from oppression either. China's record of suppressing its citizens is abysmal. The massacre at Tiananmen Square has not been forgotten; the brutal occupation of Tibet continues, an occupation now more than 40 years old; and Beijing's decision this year to give harsh prison sentences to nonviolent demonstrators reinforces the world's condemnation of that regime.

And while South Africa has made great strides in breaking down the structures of apartheid, it has still not given the right to vote to almost 30 million of its citizens. More needs to be done, including the release of many hundreds of political prisoners. In Cuba, Fidel Castro continues to rule without a mandate from his people. And in the Middle East, we all witnessed Saddam's massacre of Shiites in the south and the exodus of Kurds in the north of Iraq following on the heels of the war to free Kuwait.

Mr. President, Captive Nations Week gives us a chance to be thankful for our system of government and helps us to focus on the many people on this planet who do not enjoy the same freedoms as we do. It is important that oppressed people, wherever they are, know that our commitment to a free and democratic world community is real.●

WRONG PRESCRIPTION FOR THE UNINSURED

● Mr. SYMMS. Mr. President, I would like to bring to the attention of my colleagues an article which recently appeared in the Wall Street Journal entitled, "Wrong Prescription for the Uninsured." The author, John Goodman, president of the National Center for Policy Analysis, expounds on the problems of the health care system and HealthAmerica (S. 1227), the Democrat health reform proposal. His analysis is right on target.

I commend the sponsors' efforts on S. 1227; however, I concur with Mr. Goodman that it will not help the current health care crisis. The bill's sponsors have blamed State-mandated benefits as one force driving up the cost of health insurance and I agree. Yet to remedy the situation, S. 1227 substitutes Federal mandates for State mandates. This does not solve the problem, it only shifts it to a new level.

In his article, Mr. Goodman brings to light the direct impact this legislation

will have on employers and small businesses and I would encourage my colleagues to read it. I ask that the article be printed in the RECORD.

The article 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 healthcare 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 re-

quired 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, health-care 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.

On 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 arbitrary 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 colleague 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. ●

PROGRAMS FOR GANG PREVENTION AND HOMELESS YOUTH

● Mr. SIMON. Mr. President, I am pleased to see that my colleagues in the Senate Appropriations Committee have funded two very important grant programs which I authored in 1988. These programs are vital in the struggle to lead our youth away from drugs and gangs and into productive lives.

These are the Drug Education and Prevention Program relating to youth gangs and the "Transitional Living Program for Homeless Youth."

For fiscal year 1992, the Drug Education and Prevention Program received level funding of \$14,786,000 and the funds for the Transitional Living Program were increased to \$12,000,000. I am encouraged by the continuation of support for these programs, as they reflect a sincere desire to improve the lives of young people in our country.

The need for both the gang and homeless youth funding is obvious. The problems of homeless youth and gangs continue to plague the country. The majority of States have reported problems with gangs in both urban and rural areas. Recent studies have shown that gang members commit crimes at a higher rate than juveniles who are not related to gangs, and that they commit more violent crimes. Increased youth involvement in the use and sale of drugs is attributed to the fact that drug trafficking is the economic base of most gangs.

I believe that intervention and prevention must be provided along with law enforcement activities and prosecution. A dollar spent keeping a young person out of a gang can help him or her to lead a productive life, and it can save the possible greater expense of dealing with that youth through the criminal justice system. The Drug Education and Prevention Program is directly aimed at deterring youth participation in gangs. The program grants funds to those public and private nonprofit agencies, organizations, institutions, and individuals which are designed to prevent and reduce juvenile participation in gangs by providing alternative activities and support programs.

Similarly, there remains a vital need to address the problem of homeless youth. A GAO report that I requested released on December 19, 1989, indicated that although services are provided at federally funded shelters, they do not meet the extent of the need. Only 29 percent of the youth at these shelters receive educational services and only 6 percent employment and job training services. Yet 50 percent of those age 16 or older have left school; 22 percent of the homeless youth are reported to have drug and alcohol problems, yet only 3 percent receive treatment. The GAO report also indicated that critical aftercare services are lacking.

The Transitional Living Program for Homeless Youth, creates an alternative to help older teens learn to live on their own. Under the program, housing is offered in group settings, along with support in finding jobs and completing high school. Also, guidance is offered in personal finances and in running a household. Unlike the shelter provision of the Runaway Youth Act, the transi-

tional living programs provide up to 540 days of shelter and help youth to access vocational and education opportunities, as well as provide a support structure. The transitional living program promotes self-sufficiency and prevents future extended dependence on social services.

These two grant programs serve the critical needs of our Nation's youth who are without a home and who are involved, or risk being involved with, a gang. These efforts have been successful in steering youth toward healthy and productive avenues. It is certainly in our country's best interest to continue these two vital grant programs. I applaud the efforts of the committee and hope the full Senate will follow suit.●

SALUTE TO NOBLES COUNTY, MN

● Mr. DURENBERGER. Mr. President, as a boy growing up in rural Minnesota, I learned to appreciate my State's great outdoors and beautiful environment. That is why I am especially proud to salute the people of Nobles County, MN, for their attention to recycling.

Rural Nobles County is spacious, vibrant, and has an abundance of life wherever you look. This county exemplifies the beauty of America, a beauty these Minnesotans hope to preserve. I congratulate the people of Nobles County for designating July 21-27, 1991, as Nobles County Recycling Education and Recognition Week.

This effort to cuts across the entire community. Industries in the area are encouraged by the county commission to participate in the Nobles County Business Recycling Program. This year, the commissioners, who deserve recognition of their own, are recognizing exemplary industries that have reducing the solid waste they have put into the environment.

The Campbell Soup Co. and Monfort Pork, Inc., have cut their solid waste stream by 50 percent. This is a significant decrease. Bedford Industries, a local manufacturer of industrial and floral wired ribbon, was worried about excessive quantities of plastic waste. They developed a product line specifically designed to put these wastes to good use. The new product, plastic lumber, also utilizes much of the waste plastic processed at the Nobles County Recycling Center.

Congratulations to Nobles County for all they have accomplished with their comprehensive recycling program. It is obvious that the residents of Nobles County understand how precious and important their environment is to their quality of life and to future generations. I am proud of the steps they have taken to preserve their environment and heritage.

As a member of the Senate Environment and Public Works Committee, I

know about the efforts of many communities across the Nation to make the environment clean and safe. I am especially proud of Minnesota's solid waste reduction goals and the initiatives that all Minnesota counties and communities are taking. Together we all have the power to make a difference to protect the treasures of Earth.●

GADSDEN: THE ALL-AMERICAN CITY

● Mr. SHELBY. Mr. President, I rise today to pay tribute to the fine city of Gadsden in northeast Alabama. Gadsden has recently been named a 1991 All-American City Award winner. Gadsden is one of 10 cities nationwide to receive this prestigious honor.

No city is without problems, but it is how a city responds to these problems that defines a community's ability to achieve success in the 1990's. Gadsden has passed this test valiantly. Just 5 years ago, Gadsden was fighting a host of civic problems, including educational and environmental shortcomings.

Now as America looks ahead to the 21st century, Gadsden is a leading example to communities throughout our great Nation. Gadsden's renowned Quest for Excellence Program has been a cornerstone of its renaissance. The program began in 1988 and has been a resounding success. Quest for Excellence focuses on Gadsden's future leaders, the community's young people. I was quite impressed with the immense accomplishments of this program. In the 4 years since its inception, the program is already paying off for the youth of Gadsden—grades have risen, school dropouts have declined, gang violence has dropped, and drug abuse has fallen.

The success of Quest for Excellence is a function of the unity of purpose exemplified by the citizens of Gadsden. There is a vision of a Gadsden where children's dreams are realized in the classroom, on the athletic field, and ultimately in the marketplace. There is a realization that in order to have a truly successful program all sectors of the community have to be involved and committed. Gadsden has all of this and more. The community is a model for public-private partnerships, a formula that spells success.

But Quest for Excellence is only part of the story. Gadsden also has established a good neighbor network that has been successful in reducing litter and crime while helping to refurbish local housing. And in 1990, Gadsden opened the doors of its new Cultural Arts Center, a facility that is on par with the finest arts facilities in America.

The story of Gadsden is a story of commitment, civic pride, and involvement, and an unquenched thirst for excellence. I applaud the city of Gadsden

for this prestigious recognition. They are truly a deserving recipient.

Mr. President, I am proud to represent the people of Gadsden in the U.S. Senate and it has been my privilege to share some of their many accomplishments with my colleagues.●

ALLOCATION OF FISCAL YEAR 1992 SPENDING AUTHORITY TO THE SUBCOMMITTEE OF THE COMMITTEE ON ARMED SERVICES

● Mr. NUNN. Mr. President, under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 602(a) allocation of the fiscal year 1992 budget totals among the Senate committees was printed in the conference report on the concurrent resolution on the budget for fiscal year 1992.

Section 602(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction and to report these allocations to the Senate.

The Committee on Armed Services submits the following report in compliance with section 602(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask that the report be included in the RECORD at this point.

The report is as follows:

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 602(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. Nunn, from the Committee on Armed Services, submitted the following report:

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 121, reports the division of such allocations among subcommittees of the Committee for fiscal year 1992.

BACKGROUND

Under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 602(b) of the Act requires the committees to allocate such spending authority among either subcommittees or the programs over which they have jurisdiction and to report these allocations to the Senate.

ALLOCATION RECEIVED BY THE COMMITTEE

The direct spending authority allocation received by the Committee on Armed Services was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

The Committee on Armed Services received the following allocation for fiscal year 1992:

Fiscal year 1992

Direct spending authority:	Millions
Budget Authority	\$49,494
Outlays	36,297

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992.

Fiscal Year 1992

Subcommittee on Manpower and Personnel:	Millions
Budget Authority	\$49,412
Outlays	36,237
Subcommittee on Readiness, Sustainability and Support:	
Budget Authority	\$82
Outlays	60

JOEL HORNSTEIN, RECIPIENT OF 1991 SCHOLARSHIP

• Mr. LAUTENBERG. Mr. President, I rise today to recognize Joel Hornstein, a resident of Hackensack, NJ, and recipient of the Public Employees Roundtable 1991 Public Service Scholarship. Joel's winning essay on "Why I Have Chosen to Pursue a Government Career," offers a refreshing perspective of a dedicated young individual committed to improving the lives of the less fortunate.

I ask that Joel's essay be printed in the RECORD.

The essay follows:

WHY I HAVE CHOSEN TO PURSUE A PUBLIC SERVICE CAREER

I don't work in soup kitchens any more.

On my return from a tenth grade year spent working and studying in Israel, I found myself acutely aware of problems in New York to which I had previously grown numb. I could no longer turn my head from the homeless sleeping in doorways; I could no longer ignore children, only years younger than me, growing up in welfare hotels infested by rats and heroin needles.

From an initial work camp weekend, I became increasingly involved in a range of projects to help New York's needy. I worked in soup kitchens, distributed food in Grand Central station, and, most personally rewarding of all, embarked on a series of outings with six to ten year-olds from the Martinique welfare hotel. Soon, I launched a social service club at school and began to press, with almost immediate success, for a school-wide service requirement.

But as my efforts rapidly expanded, so too did my understanding of the enormity of the problems I was working to resolve. The two hundred or so smiles of gratitude I would receive in a day at a soup kitchen, which once had so warmed me, now pained me instead. They reminded me that there were twenty other meals in the week, meals, I had not been able to feed my guests, and that those I had served were but a fraction of all those hungry.

I turned to politics as a means of addressing on a broader scale the problems of poverty and homelessness. From volunteer in one campaign I rose to become student coor-

inator of another, and from there to paid deputy campaign manager of the Levitt congressional campaign. As my political involvement grew, I had the opportunity to influence policy, touring Manhattan's public schools and meeting with student leaders, for example, in order to brief then Borough President David Dinkins.

I came to Harvard to study government. I wanted to learn how most effectively to use the machinery of power to implement what seemed obviously correct measures. My blind confidence in the justice of what I sought was quickly shaken, however, by an introductory class in economics. I learned that government programs, no matter how admirable their goals, can if not crafted properly prove inefficient and at times even counterproductive.

I soon concluded that the analysis of policy both preceded in logical order of study and surpassed in level of interest the subject of policy implementation. I eagerly plunged into economics, taking in quick succession such courses as public sector economics, American economic policy, and a tutorial on American poverty policy. My interest in policy meshed well with my ability in mathematics, allowing me to progress rapidly toward my present thesis, in which I am evaluating the relation of savings to real after-tax interest rates in OECD countries.

Next year I will begin graduate coursework. My area of special focus will be public sector economics: the study of tax policy and of the provision of public goods. After earning my Masters degree, I hope to work for a year for either the President's Council of Economic Advisers or the Office of Management and Budget. I will then return to school to prepare my dissertation.

On completing my education, I intend to return to Washington. I am very excited by the prospect of putting my study of public sector economics to practical application. Doing so will provide not only an exciting intellectual challenge, but the opportunity to improve the lives of others in a meaningful and lasting way.

I no longer work in soup kitchens. I believe, however, that the work for which I am now preparing will someday prove even more valuable. •

CROSWELL OPERA HOUSE CELEBRATES ITS 125TH ANNIVERSARY

• Mr. RIEGLE. Mr. President, the Crowell Opera House in Adrian, MI, will be celebrating its 125th anniversary in October. The Crowell is the oldest continuously operating theater in the State of Michigan, and one of the country's premier community theaters.

The Crowell Opera House was built in 1866 by Charles Crowell who later became the Governor of Michigan. Over the years, the Crowell has undergone various transformations—originally it was a live theater, with lectures, concerts, plays, vaudeville, fine arts, et cetera. In 1921, it was converted into a movie house. It has endured many hardships and in 1967 was almost shut down. But with the help of the community, local businesses, government grants, and foundation support, it was rescued and has since been restored as an authentic opera house with quality theater and artistic programs.

Almost 70,000 people from Michigan, Ohio, and Indiana participate in events at the Crowell each year, and the number is increasing. The primary goal of the Crowell Opera House is to extend all its services to the community and surrounding area. More than 100 theater presentations are performed each year involving hundreds of volunteers. We owe a debt of gratitude to those who have worked to restore and preserve the Crowell Opera House for this and future generations. A theater such as this is too often a neglected piece of our history. I join the people of Adrian in wishing the Crowell Opera House a very happy anniversary and extending best wishes for a promising and successful future to come. •

TAKE PRIDE IN AMERICA 1990 NATIONAL AWARDS PROGRAM

NATCHITOCHE NATIONAL FISH HATCHERY

• Mr. JOHNSTON. Mr. President, each year the Secretary of the Interior's Take Pride in America Program recognizes individuals and organizations for their outstanding efforts to increase public awareness about our country's natural and cultural resources. Earlier today, awards were presented to the 1990 national winners and I am very proud to announce that two of this year's winners—the Natchitoches National Fish Hatchery and the Audubon Institute/Audubon Zoo—are from Louisiana. Throughout the years, I have become increasingly aware of the high degree of excellence that accompanies everything these organizations do and I can attest to their dedication to the environment. They are indeed deserving of this prestigious award.

The Natchitoches National Fish Hatchery has always held a special place in my heart. Included within the hatchery is an aquarium which displays a number of native Louisiana fish and turtles. Until recently, it was the only aquarium in Louisiana open to the public. The hatchery is located in my wife Mary's home town and I am especially proud that it is the only national fish hatchery to receive the 1990 Take Pride in America Award.

The Natchitoches National Fish Hatchery received this award for its ongoing activities to increase public stewardship through awareness, education, and action. During 1990, it spearheaded four related activities—the first and largest of which was the Cane River Lake cleanup. This activity involved organizing 200 volunteers to collect over 20 tons of trash—including a 1956 Edsel—along the banks of the 36-mile-long Cane River Lake. The volunteers met at 7 a.m. on a Saturday morning and were sent to six separate locations along the river where they collected trash for approximately 4 hours. Following the cleanup, the volunteers returned to the downtown riverbank for a picnic and an afternoon of enter-

tainment. The Cane River cleanup was such a success that plans have been made to make it an annual event.

The Natchitoches National Fish Hatchery also fostered the sense of stewardship through its Earth Day, National Fishing Week Open House, and National Hunting and Fishing Day activities. Through these activities, the hatchery has provided the community with a hands on knowledge of our fishery resources. For example, the hatchery's Earth Day exhibit included a living stream with examples of plastic, glass, and chemical pollution. It describes the effect of these contaminants on fish and their environment. During the National Fishing Week Open House, the public was invited to the hatchery to see and touch several types of fish and turtles located in a petting pool and touching trough. Children were invited to put their hands through the "What Am I?" box and try to guess what they were feeling; for example, fish eggs, algae, tadpoles, water, et cetera. Finally, for National Hunting and Fishing Day, the hatchery, at the invitation of a local gun club, set up a living stream exhibit featuring traditional southern sport-fishing species. Hatchery staff also demonstrated proper casting techniques to children and provided information on fish aging techniques.

Mr. President, through these and other activities, the hatchery has increased local awareness of the need to protect fishery resources and their habitat and for this they are a truly deserving recipient of the 1990 Take Pride in America Award. I am sure you join with me in offering them our sincerest congratulations.●

THE 1993 WORLD UNIVERSITY GAMES

● Mr. D'AMATO. Mr. President, in 2 years, July 8-18, 1993, the eyes of the world will be on Buffalo, NY as the United States hosts the World University Games for the first time in their 70-year history. The World University Games is the second largest international amateur athletic event in the world. It will bring over 7,000 athletes and officials from 120 countries to America to compete in 12 sports.

The games are staged every 2 years with both summer and winter events. This year, in fact this week, they are taking place in Sheffield, England. At the Sheffield closing ceremonies, the United States will accept the World University Games mantle. To celebrate this development, the 1993 organizing committee is staging "World University Games Week" from July 20 to 28, 1991, with activities throughout western New York and beyond.

Over nearly four generations, the World University Games have showcased many of our Nation's finest student athletes from ages 17 to 28. People

like basketball star Larry Bird, legendary diver Greg Louganis, track and field champion Valerie Brisco, and one of our colleagues, Senator BRADLEY, have donned the U.S. colors. The 1993 games will be the most important international amateur athletic competition that year and a key element of the U.S. Olympic Committee strategy to establish our country as the premier host for similar events in the 1990's.

The World University Games, however, do not end at the walls of the stadium or the edge of the playing fields. Reflecting a heritage of service to educational development and cultural understanding, the 1993 games will also conduct major academic, cultural, and economic programs. These include an international academic conference, a sports medicine convention, a multievent cultural festival focusing on developing nations, and a trade show designed to stimulate exports of American goods and services.

Preparations for the 1993 games are well underway. Under the leadership of the Greater Buffalo Athletic Corp. and the 1993 organizing committee, planning and staffing for the many facets of this great event are taking shape. Critical support from the private and public sectors are mounting as awareness grows of what the games will mean to our Nation's athletes and to the region's development. Volunteers from every imaginable background are also stepping forward to contribute their invaluable time and energy to the event.

Government, too, has a role in the 1993 games. The United States was selected over many other interested countries with the official endorsement of the President and Congress. Thus, with thousands of participants and hundreds of thousands of spectators from around-the-globe expected to gather in the United States, there is a clear Federal interest in the safety and productivity of the games. I thank my colleagues for their ongoing support and urge them to continue their favorable consideration of Federal support for the games. It is essential for an event of this scale and caliber.

Of course, the heart and sole of the World University Games is fair and open competition—a principle that runs deep in America whether on the athletic field, in the classrooms, or in the workplace. This week is a time to celebrate our 1991 team and to redouble our efforts to make the 1993 World University Games the greatest possible success.●

TAKE PRIDE IN AMERICA 1990 NATIONAL AWARDS PROGRAM

AUDUBON INSTITUTE—AUDUBON ZOO

● Mr. JOHNSTON. Mr. President, each year the Secretary of the Interior's Take Pride in America Program recognizes individuals and organizations for their outstanding efforts to increase

public awareness about our country's natural and cultural resources. Earlier today, awards were presented to the 1990 national winners and I am very proud to announce that two of this year's winners—the Audubon Institute-Audubon Zoo and the Natchitoches National Fish Hatchery—are from Louisiana. Throughout the years, I become increasingly aware of the high degree of excellence that accompanies everything these organizations do and I can attest to their dedication to the environment. They are indeed deserving of this prestigious award.

The Audubon Institute-Audubon Zoo received the 1990 Take Pride in America Award for its "Earth Fest '90" Program, a week-long conservation event which attracted over 25,000 participants—1990 marked the fifth year that the Audubon Institute-Audubon Zoo has sponsored Earth Fest.

Through this event, the Audubon Institute increases public awareness about the environment and about the need to encourage conservation-oriented thinking. During the work week, Earth Fest events are geared toward school children and include activities such as recycling, tree plantings, wild-life gardening, and more. The New Orleans Regional Transit Authority transports the children to the zoo free of charge.

During Earth Fest weekend, 45 environmental organizations provided information to the public on environmental-conservation awareness and local Girl Scouts participants in an Audubon Park and Lagoon cleanup. Entertainment with an environmental theme was scheduled throughout the weekend and reduced admission to the zoo was available to individuals and families who brought recyclable goods with them.

The enormous public participation in Earth Fest serves as a tribute to its success. Through these activities, the Audubon Institute and Zoo have increased public awareness of the environment and have encouraged the public to act in a more environmentally sensitive manner. If past success is any indication of future possibilities, I am sure Earth Fest will do nothing but reach an even larger audience in the years to come. The Audubon Institute-Audubon Zoo is a truly deserving recipient of the 1990 Take Pride in America Award and I am sure you join with me in offering them our sincerest congratulations.●

THE CENTURY COUNCIL

● Mr. SEYMOUR. Mr. President, I rise to pay tribute to the Century Council, an important and innovative new team created to reduce the abuse and misuse of alcohol beverage products.

I had the opportunity to learn of the Century Council during a recent visit with its new chairman, Ambassador

John Gavin. Ambassador Gavin has established two initial priorities for the Century Council: First, to reduce the incidence of drunk driving through community wide campaigns, tough and effective law enforcement, and better education; and second, to eliminate alcohol abuse among young Americans through effective identification and education programs.

To assist the Century Council, over \$40 million has been pledged over the next 3 years by leading companies in the alcohol beverage industry. Supporters of the Century Council include many large and small wineries, many leading spirits companies, and several breweries. I believe this is an intelligent, responsible and frankly, commendable gesture on the part of these companies. They recognize that responsible use of alcohol by consumers is good public policy and good business. And I hope that Ambassador Gavin's efforts will enjoy the support of all of the alcohol beverage industry.

Mr. President, the founding of the Century Council sends an important message that the concern about the misuse and abuse of alcohol is one shared even by the representatives of that industry. To rid the Nation of the plague of alcohol abuse requires a team effort—an effort on the part of parents, teachers, government, and other community leaders. The Century Council represents the alcohol beverage industry's determination to be a part of this team.

Ambassador Gavin has set some very ambitious goals for the Century Council. With his proven leadership and the support of the Council's sponsors, I am confident that the Century Council can make a real difference. I welcome Ambassador Gavin and the Century Council to the Nation's community of leaders determined to make our streets safer and our children wiser of the dangers of alcohol abuse. I wish them the very best of success.●

RELIEF FOR AFRICA

● Mr. LIEBERMAN. Mr. President, I rise today to call attention to the current crisis and famine in the Horn of Africa. The enormity of human suffering in this region demands immediate actions from this body, from our entire Government, and from the world.

The United Nations Food and Agriculture Department recently estimated that 30 million Africans—a population roughly equal to that of California—are in danger of severe malnutrition and starvation. Thousands have already died, and tens of thousands more will die unless the world acts. At greater risk are the estimated 3 million refugees who have fled from Ethiopia, Somalia, and the Sudan. These countries have been plagued not only by recurrent drought but by civil war as well.

Famine is nothing new to the people of the region who have suffered so much. Many of those who currently face starvation have suffered throughout their lives from the pangs of hunger and from the dangers of war that ravage their lands and have forced them to abandon their homes. But this time the situation is even worse.

The Horn of Africa Recovery and Food Security Act of 1991 (S. 985), which this body recently passed, is an important first step in our efforts to help the people of the Horn. I want to salute some of my Connecticut constituents, notably Jack Williams of the United Way of Bridgeport, for working on behalf of such a humane piece of legislation. This act correctly recognizes the need for both emergency relief to the region and for a U.S. policy committed to fostering an atmosphere of peace and stability in which long-term solutions to the Horn's chronic problems can be pursued. It also properly supports the use of indigenous grassroots organizations to target aid to the neediest regions. By focusing on these organizations, we can begin to establish an infrastructure for aid distribution and work toward the long-term goal of self-reliance.

Mr. President, the numbers and statistics I cited earlier are unfathomable when translated into individual human suffering. All who value human life must recognize our moral obligation to do everything in our power to initiate massive relief efforts to help end the suffering in the region as quickly as possible. Once again, I commend my colleagues for passing the Horn of Africa Recovery and Food Security Act of 1991. I furthermore urge the Members of the House to act quickly on this legislation, the necessity of which increases with every passing moment.●

AIRBAGS

● Mr. LEVIN. Mr. President, I would like to comment on the airbag provisions in S. 591 and S. 1012 which the Senate recently passed by voice vote. I support the installation of airbags and other measures to improve vehicle safety, but I believe these bills ought to be amended before becoming law.

In particular, the legislation's schedule for the installation of airbags will cause needless costly redesign for some vehicles because the auto manufacturers' product plans have been based on the schedule in the current NHTSA regulations. In addition, the legislation, unlike the NHTSA regulations, does not provide credit for the early installation of airbags.

INSTALLATION SCHEDULE

Most manufacturers have announced their intention to install airbags on most, if not all, product lines during the nineties. They are doing this without a statutory mandate. Instead, they are responding to both consumer de-

mand and the safety rules established by NHTSA.

S. 591 and S. 1012 would require manufacturers to install airbags in the driver and passenger positions in light truck vehicles [LTV's] on a schedule considerably in advance of that required by the current NHTSA regulations. NHTSA developed its implementation schedule after going through a complete rulemaking process and a thorough investigation of industry leadtime considerations.

NHTSA's regulations recognize the special design and production requirements of LTV's. The LTV class includes a wide variety of different vehicles including small, medium, and large pickup trucks, several different full size vans, front-wheel drive minivans, rear-wheel drive minivans, small and large utility vehicles, and Jeep-type vehicles. Most of these vehicles require something unique in their airbag design solutions, including different instrument panels, knee bolsters, and potentially unique crash sensors.

The regulations also acknowledge the need to exempt step-in van vehicles because of their unique configuration and usage. While the committee report on S. 591 says that the bill would require airbags only on minivans, small pickups, and Jeeps, the bill language would appear to require airbags on most large pickups, vans, and utility vehicles. Clearly, the bill should be amended in these respects.

To enact into law this legislation as currently drafted would be punitive to the manufacturers. Any airbag legislation should adopt the schedule already established through rulemaking and to which manufacturers have already locked in product cycle plans.

CREDITS FOR THE EARLY INSTALLATION OF AIRBAGS

Not only have the manufacturers made plans based on the regulations' installation schedules, but they have also made plans based on the credits the regulations provide for early installation in certain vehicles. These credits have encouraged the early development and production of vehicles with driver- and passenger-side airbags, and have allowed for the most efficient installation of airbags in each model.

S. 591 and S. 1012 do not provide credit for the early installation of passenger-side airbags such as the NHTSA regulations award during the phase-in period. At a minimum, they should be amended to include a credit arrangement.

I do not quarrel with the goal of this legislation, I only suggest some ways in which it can and should be improved without compromising its goals. It could also be improved in some other ways, which my colleague, Senator RIEGLE, will describe.●

● Mr. RIEGLE. Mr. President, I share the concerns raised by my colleague,

and would like to mention some additional ways in which the bill could and should be improved.

This legislation does not provide sufficient flexibility for unforeseen events, such as supply disruptions, which have in the past temporarily prevented manufacturers from installing airbags as planned. In addition, by mandating a design standard rather than a performance standard, this legislation may stifle innovation, preventing the industry from developing more effective, alternative safety devices.

FLEXIBILITY

Laws mandating particular technologies must include provisions for unforeseen factors, such as major interruptions of materials and supply, that could temporarily prevent a manufacturer from meeting its anticipated production volume of airbag-equipped vehicles. Flexibility for supply interruptions is particularly important in industries, such as the airbag industry, which have expanded rapidly to meet large demand increases.

Between 1988 and 1990, there were 11 sodium azide fires at the three principal airbag propellant manufacturers. In at least one case, the auto manufacturer had to delay installation of airbags as a result. Clearly, this legislation ought to include provisions for temporary exemption of manufacturers facing unforeseeable supply constraints.

DESIGN STANDARDS

Congress and the Department of Transportation have long recognized the importance of safety studies and determinations to set performance standards, rather than mandated design standards such as those contained in S. 591 and S. 1012. Performance standards provide manufacturers with the latitude to produce the required technology to meet the standard without dictating the actual design. Design standards tend to stifle further innovation, and may forestall the development of alternative technology.

Consequently, the Congress and administration have refrained from setting design standards, standards which state that this or that design is the only one that qualifies. Current NHTSA regulations set schedules for the installation of passive restraint devices in cars, light trucks, and buses,

but let the manufacturers and consumers determine what type.

But rather than mandating a performance standard, a certain measure of occupant safety that must be met by all new vehicles, S. 591 and S. 1012 mandate a single design standard: the airbag. Mandating a standard of performance, in contrast, would encourage manufacturers to further research and test new ways to protect the occupants of motor vehicles.●

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 Tuesday, July 23; 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 10:15 a.m. with Senators permitted to speak therein; that during morning business, the following Senators be recognized to speak: Senator GORE, 20 minutes; Senator JOHNSTON, 20 minutes; Senator WELLSTONE, 10 minutes; and Senator LEAHY, 15 minutes.

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 ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m. Tuesday, July 23.

There being no objection, the Senate, at 8:19 p.m., recessed until Tuesday, July 23, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1991:

DEPARTMENT OF STATE

PARKER W. BORG, OF MINNESOTA, 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 UNION OF BURMA (MYANMAR).

JAMES F. DOBBINS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN COMMUNITIES, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

AFRICAN DEVELOPMENT FOUNDATION

C. PAYNE LUCAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1993. VICE DAVID C. MILLER, JR.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DONALD R. LIVINGSTON, OF GEORGIA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF 4 YEARS. VICE CHARLES A. SHANOR, RESIGNED.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

CHARLES SZU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 1996. VICE THOMAS G. POWNALL, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

BEN-CHIEH LIU, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1993. VICE MARGARET PHELAN.

NATIONAL COUNCIL ON DISABILITY

MARY MATTHEWS RAETHER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994 (REAPPOINTMENT).

PEACE CORPS NATIONAL ADVISORY COUNCIL

MICHAEL B. MCCASKEY, OF ILLINOIS, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1992. VICE JOSEPHINE K. OLSEN.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR THE TERMS INDICATED (NEW POSITIONS):

FOR TERMS OF 1 YEAR:

GAYLE EDLUND WILSON, OF CALIFORNIA.
GEORGE WILCKEN ROMNEY, OF MICHIGAN.
KAREN SUSAN YOUNG, OF CALIFORNIA.
WILLIAM J. BYRON, OF THE DISTRICT OF COLUMBIA.
GLEN W. WHITE, OF KANSAS.
THOMAS EHRLICH, OF INDIANA.

FOR THE TERMS OF 2 YEARS:

RICHARD FREDERICK PHELPS, OF INDIANA.
LESLIE LENKOWSKY, OF INDIANA.
ALAN KHAZEL, OF MASSACHUSETTS.
PAUL N. MCCLOSKEY, JR., OF CALIFORNIA.
REATHA CLARK KING, OF MINNESOTA.
SHIRLEY SACHI SAGAWA, OF VIRGINIA.
WAYNE W. MEISEL, OF MINNESOTA.

FOR TERMS OF 3 YEARS:

DANIEL J. EVANS, OF WASHINGTON.
MARIA HERNANDEZ FERRIER, OF TEXAS.
FRANCES HESSELBEIN, OF PENNSYLVANIA.
PATRICIA TRAUOGOTT ROUSE, OF MARYLAND.
JACK A. MACALLISTER, OF COLORADO.
JOYCE M. BLACK, OF NEW YORK.
ROBERT L. WOODSON, OF MARYLAND.

DEPARTMENT OF JUSTICE

WILLIAM HO-GONZALEZ, OF VIRGINIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS. VICE LAWRENCE J. SISKIND, RESIGNED.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

JAMES C. KENNY, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1993. VICE JAMES COLES, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—Monday, July 22, 1991

The House met at 12 noon.

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

O Lord, we praise You and give You thanks for the glories of a new day and for the many blessings You have showered down upon us.

We come to You, aware of our sins and shortcomings. We have done those things we should not have done, and have failed to do much that we should. We beg Your forgiveness.

Give us an assurance of Your pardon, and the strength to meet the challenges and temptations of a new day.

Make us open to new truth, and bless us, we pray, with a fresh sense of Your grace. Give us the insight to discern Your will in our lives, and the courage to seek and follow Your will in all that we do.

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. The Chair will ask the gentleman from Mississippi [Mr. MONTGOMERY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. MONTGOMERY 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.

FDIC FINANCES GROW BLEAKER

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

Mr. ANNUNZIO. Mr. Speaker, on June 27, FDIC Chairman Seidman testified that the fund declined by 15 percent in the first quarter of 1991. This is on top of the 23-percent average rate at which FDIC has declined in the previous 3 years.

Seidman also more than doubled his projection of FDIC losses. He now projects as much as an \$11 billion deficit by the end of 1992, compared to his \$4.6 billion deficit prediction of 6 short months ago.

FDIC losses hit an all-time high last year, with a negative net income of \$4.85 billion. Nevertheless, the assets of troubled banks jumped by an incredible 74 percent to an all-time high of \$409 billion.

Mr. Speaker, the FDIC is in deep, deep trouble. I am concerned that the restructuring bill reported out of the Banking Committee last month doesn't do enough to protect the taxpayer from bailing out the FDIC. That is why I voted against this legislation.

Our two primary objectives should be to protect the taxpayers and recapitalize FDIC. The sooner we accomplish these tasks, the better. If other parts of this package will slow down our two primary objectives, then we should put them on the back burner.

UNIVERSITY OF NORTH CAROLINA STUDY MUST GO FORWARD

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

Mrs. SCHROEDER. Mr. Speaker, today, as chairwoman of Children, Youth, and Families, I am sending a letter to Secretary Sullivan. I am very sorry I have to send it.

I was so saddened by his courage meltdown when the right wing came after him, and he stopped a very, very important study that had already been funded by the University of North Carolina dealing with adolescents and sex. Yes, I know it is a very difficult issue to deal with, but in the 1980's, the number of teen pregnancies doubled in this country. That is a terrible trend.

In the 1980's, the increase in the STD's, sexually transmitted diseases, increased to absolutely an epidemic level. That is a terrible trend.

We need answers. This study was very carefully crafted by people who knew what they were doing and was only targeting children who were already into these kinds of activities to try and find out what put them there. It was not trying to drive other kids in there, but to try and see what we could do to correct that behavior.

I certainly hope Secretary Sullivan looks at this. This is one of the biggest health problems we have in this country, and it has been neglected for so long. It has been funded, and I certainly hope he gets it back on track.

TRIBUTE TO BALLARD HIGH SCHOOL, LOUISVILLE, KY, MIXED CHOIR

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

Mr. MAZZOLI. Mr. Speaker, last Thursday morning at 7 o'clock, Ms. Sandy Allen, who is the principal of Ballard High School in Jefferson County, Louisville, KY, received a phone call, an international phone call, and the message was from her students who constitute the choir, the mixed choir, of Ballard High School.

The message was, "We have won Vienna, the city of music; we have won Vienna, the city of music."

What the message, cryptic as it was, meant was that the 55 young men and women who constitute Ballard's mixed choir won both the best of the festival for mixed choirs as well as a special prize for its performance in the prestigious Vienna International Youth and Music Festival.

I just want to take a moment to complement those 55 young men and women, Mr. Perry Duckett, who is their music director, and all of the people who took part in that wonderful adventure, and it was an adventure, 2 years in the making, involving each of the young people having to raise money for their transportation, and to salute them as a member of the community and as a Member of Congress.

We are very proud of you. You have brought great respect and dignity to our community.

VIETNAM GOVERNMENT MUST STOP REPRESSING RELIGION

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

Mr. ROHRABACHER. Mr. Speaker, it is ironic that last November I was in Hanoi speaking with the Foreign Minister of Vietnam and that he had assured me that Vietnam was turning over a new leaf. He assured me that in the new Vietnam there would be freedom of religion.

Why this is ironic is because one of my own constituents has just been arrested by the Communist government in Vietnam for giving out Bibles that were translated into Vietnamese. Two Orange County residents, Americans of Vietnamese descent, have been held by the Communist government in Vietnam since July 2.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This outrage cannot be let to sit without action on our Government's part. The fact is that two Americans are in a Communist jail for doing nothing more than preaching the Gospel.

If we are to have normalized relations with Vietnam, they are going to have to stop this type of activity against American citizens, but also they are going to have to stop repressing their own Christian community. We cannot have normalization of relations in any way with a Communist government like Vietnam if they continue to persecute their own Christian community, and the message has got to go out from all Americans that there are two Americans being held in a Vietnam prison; they are not alone.

In situations like this, all Americans stand together.

The Vietnamese Government should release Rev. Taun Phuc Ma and Rev. Ni Van Ho, American citizens who were doing nothing more than practicing their God-given rights of freedom of religion, and that freedom should be extended to all people everywhere including the Vietnamese people.

□ 1210

BILL CONTINUES CURRENT EDWARD BYRNE FEDERAL/LOCAL SPLIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, last Thursday I dropped a bill in the hopper which I would like to just momentarily talk about, with the hope of encouraging my colleagues to support the bill.

My bill would continue permanently the current 75 percent Federal/25 percent local sharing arrangement for the Edward Byrne money, in that title of the section of the Omnibus Crime Control and Safe Streets Act of 1968.

The Edward Byrne section deals with law enforcement assistance in the anti-drug effort. Currently, by reason of 1-year extensions, the split of money is 75 percent which is advanced by the Federal Government, and 25 percent which is the local share. As of October 1 of this year, unless the extension is continued permanently or temporarily, the formula will revert to a 50 to 50 split.

It is very difficult, Mr. Speaker, under all the circumstances today, for local governments to provide the money which they need for purely local activities, or in the case of antidrug efforts, those which are partly Federal and partly local. They are strained in the resources which they have at their disposal, and they are obviously searching out as many new ways to raise local revenues as possible.

If the 50 to 50 split were to be ordered this coming October 1, I am led to be-

lieve by reliable information from my friends at home in Louisville and Jefferson County, that their ability to cooperate in these Edward Byrne grants would be severely limited. With that would go the possibility of continuing what has been a very valiant and a very successful effort at home, to fight the war against drugs and drug abuse, and the violence in the streets which goes with drugs and drug abuse.

My bill would, as I said earlier, continue permanently the current sharing arrangement of 75 percent Federal/25 percent local. On Friday, in Louisville, my hometown and district, I had a meeting with a group called AWARE, an acronym for Area-Wide Alcohol/Drugs Rehabilitation Education Enforcement Coalition, which has been extremely successful at home. At that meeting, I indicated that I had, the day earlier, filed a bill. They were extremely gratified by that news because they picked a time at that meeting to advise me of the specific ways in which their ability to fight the war against drugs would be curtailed or maybe even eliminated unless the 75 percent/25 percent split or share is continued.

These are the people, as I said in my remarks to them on Friday, who are in the trenches. They are, literally, in the trenches fighting that way, which is so absolutely necessary to win if our streets are to be livable and our cities are to be livable again. My friends at home indicated to me that they wish to continue the effort. They believe the war is winnable, despite its very strong difficulties and very strong challenges which lie ahead. But, the only way they can win that war, Mr. Speaker, as they have advised me clearly, is with adequate resources.

When my bill is printed, I intend to circulate in the form of a Dear Colleague letter to all of my colleagues, some information about it. My letter will indicate that my colleague, friend, and congressional classmate, the gentleman from New York [Mr. RANGEL], who is the chairman of the Select Committee on Narcotics Abuse and Control, which I happen to serve on with him, is a colleague of mine in these efforts to create a continuation of the 75/25 percent sharing arrangement. I will ask my colleagues to join the gentleman from New York [Mr. RANGEL] and me in these efforts.

Mr. Speaker, I just wanted to take this moment to tell our colleagues that the war against drugs is a very stern challenge for all Members. This is a challenge that we can meet and surmount. However, it will take resources, Federal and local. It is my belief that if we retain the current arrangement of 75 percent/25 percent local, we have a better chance of meeting that challenge.

RESOLUTION REPEALING 25TH AMENDMENT TO THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today as I have for 25 years, I have reintroduced a resolution asking for the repeal of the 25th amendment to the Constitution, which is in respect to Presidential succession.

The reason I do so is that I was here at the time in 1965, and in fact I think it was this month or thereabouts, when this resolution was brought up quite suddenly. In that day and time, Members did not have the procedural methods that we are accustomed to today. They were, in a manner of speaking, more direct, and in fact pretty much on the fast track.

Appropriation bills for defense, which for that day and time were astoundingly high, \$35 billion, would go through this Chamber in less than 20 minutes. Tax bills would come under closed rule, and they still do, and some of the more complicated tariff arrangements in the tax bills would flash through here with little or no debate, and certainly no amendments.

When this amendment came up, and the bells, which were infrequently rung in that day and time, called for a quorum, a live quorum, and then the offering of the resolution by then chairman of the Committee on the Judiciary, Manny Celler, I naturally was intrigued. I came forward, and not being a member of the Committee on the Judiciary, I got a copy of the resolution. I read it, reread it, and could not imagine that it was serious.

Therefore, I went to the chairman and I asked him, "Chairman, what is this about? You are not really pushing this?" At that time, Chairman Celler was up in years and not feeling too well. He was kind of crotchety and ill-tempered, and was very impatient with me. He said, "Well, I don't know what you are asking." I said, "You refer here to, if the majority of the governing body decides that the President is disabled; that is, unable to discharge his duties, they shall then declare so, and the Vice President becomes interim or acting President." I said, "Now, what do you mean by 'governing body'?" There is no such language in this Constitution." He got very impatient and said, "Well, I don't have time. You ought to know that that refers to the Cabinet."

□ 1220

And I said, "Well, but the Cabinet is not a constitutional word, either."

Well, with that he lost patience with me and kind of cursed me under his breath and waved me away.

So I came back and sat and looked it over, and the more I read it, the more

I became convinced that a real effort was being made that afternoon to pass that bill, and I would not support it.

So I found myself one of about 28 voting no, but I was the only one who took the floor, like today on a special order right after, and spoke out and gave my reasons. I wish I had been altogether wrong. It is difficult to evoke 1965 today.

The big ado was the fact that President Johnson had been President without a Vice President for 1 year, and I brought out the fact, not to Chairman Celler, but to the author of the resolution in the Senate, Senator Birch Bayh of Indiana. I was very, very concerned. I did not think that three-fourths of the legislatures would without inspection and thorough going review of the history would quickly approve that resolution. Well, I was wrong. They did. It was in post-haste, a minimum amount of time, approved by the required number of State legislatures. The rest is history.

I said that what this did was promote and provide the environment, in the words of James Madison, for "the bold and the ambitious to take over."

I pointed to the experience of such men in our history back in the beginnings when we had such men and had some, like Aaron Burr, who were even conspiring with the Spanish down in the Southwest to form some kind of allegiance actually against the United States, and who as you will recall your history was the one who in a duel killed Alexander Hamilton. He was certainly within that definition of James Madison, bold and ambitious.

I said in those remarks that we could not do anything less than appeal to the future at such times, which God forbid but which experience showed we had suffered then, such as the Civil War, times of divisiveness, times of passion, that the bold and the ambitious would be fishing for power and that this instrumentality would hang like Damocles' sword over our constitutional and democratic government's head forever and a day until it is repealed.

Well, I never foresaw that in my lifetime or even in my membership in the Congress I would see that happen, but it did.

I want the RECORD to show that in 1974 by the time we had the incident of Vice President Spiro Agnew that had faded, just 1 year before in September of 1973, who recalls Vice President Spiro?

Well, to our detriment, all free people in all the history of free people in a democracy, history shows that when people relax their hold on their responsibilities and their duties, they would lose their liberties and lose that democracy, as indeed history shows they have, and as we are now, and a long way down the road with apparently very little perception on the part of those who would have the responsibil-

ity of molding opinion or leadership for which the people must depend, but in our system it is presupposed that that knowledge is inherent in the people, which I think everybody knows is an assumption that in these difficult days and in the days of instantaneous electronic communication and the grasp for power and the exercise for power, notwithstanding the constitutional restraints, is something that the people have to depend on their agents, that is us; but today we live in a day and time whether it is in private enterprise or public, the sense of trusteeship is not there.

We see the dilemma that we are in now and probably the most serious one confronting this Nation in I would say a 100 years, not 75 years, with very little perception even in the industry itself known as the banking and financial enterprises.

You see where corporate heads even at a time when their competitiveness is nil and still holding that power and those inordinate profits, will look upon their enterprise which has quasi-public responsibilities as something that has no trust responsibility. Inherent in that and the compromise of integrity is the basic root from which these very difficult problems which in due time will be called crises; but at the bottom of it is a constellation, an array of constitutional enactments, such as the 25th amendment, and what follows there from the executive branch's powers and the Executive orders that have emanated from various Presidencies, the delegation of tremendous authority during times of crisis, such as war, from the Congress under the Constitution to the President as would be necessary during those times. A multimember body cannot exercise with the rapidity and quickness of judgment and decision that a unitary official, like the President must, in time of war; so if we look at the powers the President exercises today that obviously have to be delegated by the Congress under the Constitution, they date back to the Espionage Act of 1970.

Unfortunately, democracies, and I think ours in particular, have fallen right into the faults of the monarchies. Therefore, we are like the old Bourdon kings. We learn nothing and we forget nothing.

The 25th amendment is a dangerous sword hanging over our heads. I never dreamed in my lifetime as much and as troubled as I was by the occurrence in September 1973, by the departure of Spiro Agnew as Vice President and the circumstances, and that is another story, and apparently according to him in the book he wrote afterward, and the title of that book is "Go Quietly Or Else," and he attributes that threat to then Gen. Alexander Haig, who 1 year later joined Senator Bayh and Henry Kissinger, approached President Nixon as the House of Representatives was on

the verge of voting an impeachment resolution and said, "If you don't quit, we will invoke the 25th amendment."

Now, I cannot see any of us, and particularly since I was here at the time and was a lone voice who recorded why I had voted no, the other 27 Members voted no, but as far as I know, never stated any reason. I did, and ever since then it has been at the bottom of a great deal of concern; so today I have reintroduced this and it is now known as House Joint Resolution 310.

I am reaffirming a conviction I have had for 25 years, as I say and repeat, and I believe that strongly today as ever that the 25th amendment is a threat to the stability of elected Government in this country. We value our Constitution because it ensures that the Government is elected and that the elected Government is bound by laws.

□ 1230

But laws and constitutions are only as strong as the will of the people that keep and enforce them. A government respects law only if its leadership is committed to law. And we know that this is not always the case. In the 25th amendment we have a device that is intended to provide for an orderly succession in the office of the Presidency. Proponents of the amendment had the best of intentions, I have no doubt of that. But to conceive and write the legislation that was going to truly carry out those intentions was, and has turned out to be, something else. The result is that we have a standing invitation in law in the Constitution to overthrow the President through the operation of the disability clause of the 25th amendment. In recent weeks we have learned of our current President's health problems, problems which are being treated and which are still being studied by medical officials—and, God willing, will result in complete, total recovery for our President. But none of us, no one, has any guarantees to life, and there is no way of knowing whether the 25th amendment will become applicable during this administration or any other administration.

However, Presidential succession has been an issue in nearly every Presidency since Woodrow Wilson. Woodrow Wilson suffered a stroke and had a 2-year disability while in office. Then Roosevelt's death, Eisenhower's heart attack, Kennedy's assassination, Nixon's resignation, and Reagan's near-assassination and later cancer surgery.

Mr. Speaker, I have voted in recent days in ways that clearly show I am in the minority on some issues, and this has been true all through my career. It was not because the positions were taken because I loved them; I am like everybody else, I love a winner too. But since I started on the city council, I cut my teeth in politics there, never having intended to get into politics, I realized that one had to base whatever

decisions he made on as much knowledge and documentation and without fear of favor as it was humanly possible to summon. And if the people give you that independence, who else, then, can be the cause for the deprivation of it other than one's self?

So, as I say and repeat, clearly I have been in the minority. On the city council, on June 19, 1954, of all days, I was the only one voting against an array of segregatory ordinances, for my great city of San Antonio had never bothered to pass since it was founded as a municipality under our law in 1839. And it looked very, very extraordinary that I would vote "no" and eight members would vote "aye." But I did. I had the great pleasure in exactly 1 year and 10 months later, with a new council, of offering the repealer and opening every tax support and municipal facility to all citizens regardless of race, color, creed, sex, or religious behavior.

I have introduced legislation in an attempt to repeal the 25th amendment ever since it was ratified in 1966-67.

Now, who bothers with the 25th amendment? Who even reads it?

I want to ask my colleagues, "How many of you are familiar with its exact wording?" And who is going to tell me, when I took the floor in August 1965 and was the only one giving reasons for voting "no" to that resolution, that I would see the worst fears confirmed in my lifetime? I never dreamed of the extraordinary dangers inherent in that amendment.

What is this 25th amendment? Among other things, it was passed because apparently it was felt that a great crisis had ensued after the death of President Kennedy and the assumption of the Presidency by Vice President Johnson. Now, Johnson, because he did not have a Vice President for 1 year—and I remonstrated with Senator Bayh and with Chairman Celler that the ship of state survived, it survived the assassination of Lincoln and the attempted impeachment and trial for impeachment of President Johnson, who succeeded him. Now, who was Andrew Johnson's Vice President? I said, "Let's not hurry."

What was overlooked was something, which I researched: The Congress in its very first Congress passed enabling legislation to carry out that section in the Constitution with respect to the Presidency and its occupancy. And what those statutes said—and they lasted until 1925—was that if anything happened to our President, if he should die while in office or resign or probably impeached—which was remote, of course, because in 1791 nobody thought of that—but they were serious people and they were following through implementing the statutes in those areas of general direction in the Constitution.

What they provided for was that if that President was to leave office and there remained 1½ years or more in his

term, an election should be held so that the people would elect their President. The last thing the men who wrote the Constitution ever wanted and feared the most was an unelected chief magistrate, as they called him in that day and time, or President. And we got him.

There is a fairly good book on this, entitled "The Process of Political Succession," though not about what I have just said. I have not seen it written anywhere. It is edited by Peter Calvert.

The orderly transition on the assassination of John Kennedy was not, in fact, as orderly as it was made out to seem to be to the outside world. But compared with the chaos that followed the attempted assassination of Ronald Reagan in 1981—and, I might add, what followed his cancer surgery in 1985—it was a model. And of course what happened in between with President Nixon in 1974 was just as chaotic.

Now, if the 25th amendment was meant to eliminate chaos and provide for a smoother transition, this has not been accomplished. We are just lucky.

What happened in 1974? We had the Chief of Staff Alexander Haig and Secretary of State Henry Kissinger, both positions filled by appointment, not elected by the people, saying, "Mr. President, if you do not resign, we may have to invoke the 25th amendment." These two unelected officials were going to use the disability clause of the 25th amendment to make a decision for the American people, make that decision for them and force the President out of office.

Later, upon the attempted assassination of President Reagan in 1981, the self-same Alexander Haig, as Secretary of State this time, was then at the scene claiming to be in charge of the country when in fact there were three men ahead of him in the line of Presidential succession.

Such ambition and such ignorance of our Constitution and the 1947 Presidential Succession Act is precisely the danger inherent in the disability clause of the 25th amendment.

In 1985 President Reagan's cancer surgery caused another crisis in possible Presidential succession. The President's reluctance to turn over the reins of power under the 25th amendment during his recuperation period may have caused one of the worst scandals in recent history, the Iran-Contra affair. In fact, when President Reagan went in for the actual surgery, he did not want to set a precedent and bind the hands of his successor, so although he wrote a letter that followed the format of the 25th amendment, it did not call what he was doing an action under the 25th amendment and in fact said that he did not think the 25th amendment applied to his temporary sedation for surgery.

□ 1240

But what about his recuperation? A person does not have major surgery and go back to work at full force as soon as the anesthesia wears off, yet I have read that the President's legal counsel, Fred Fielding, together with Chief of Staff Donald Regan, made the decision for the President to resume the Office of the Presidency immediately after his surgery. Not the doctors, not the Cabinet, but two Presidential advisers made the decision. When asked about this, Mr. Fielding said that his and Regan's decision was based on the surgeon's saying that the President was OK. They reportedly accepted this on face value and did not question the physician about the President's judgment.

It was a terrible thing for the President to be brought back to office that soon, a terrible thing for the country, reports that President Reagan made Presidential decisions during his recovery from cancer surgery. It lends additional credence to the former National Security Adviser, Mr. McFarlane's, contention that he received all approval from Reagan for the arms shipment to Iran. Reagan underwent surgery on July 13. The first arms shipment occurred the next month.

Was the President reluctant to invoke the 25th amendment because of its disability provisions because of the probability that he could not regain power once he regained his health? Mr. Speaker, the 25th amendment certainly did not help prevent that tragic mistake in his judgment, and it possibly caused it because of the fear that power, once relinquished, could not be regained. As reported from a book based on Presidential disability and the 25th amendment, edited by Kent W. Thompson, one of the drafters of the amendment, former Senator Birch Bayh, has stated there was concern about the possibility that a means for a coup d'etat was being created by the language of the amendment. He has said that this concern led to the inclusion of the President's Cabinet in the decisionmaking of the President's inability to discharge the duties of his office.

But here I must interject the very question I raised with Chairman Celler. "Cabinet" is not a constitutional word. "Governing body" is not a constitutional word. So, even if Birch Bayh felt that they were invoking the Cabinet, it was certainly a very, very naive assumption. But the 25th amendment does not even mention the President's Cabinet, as I said. What it states is this:

Whenever the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, and up to now the Congress has provided no law, determine that the President is unable to discharge

the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as acting President.

Now, in fact in light of the additional fact that the amendment was drafted in response to the assassination of President Kennedy, it is significant that Senator Robert Kennedy expressed grave concern about this provision of the amendment. Senator Bayh has reported that Senator Kennedy objected to the language and told Senator Bayh that President Kennedy did not know any of the members of his Cabinet personally, until he appointed them. Senator Kennedy believed that the Cabinet then was not close to the President and could not possibly offer the kind of protection against a coup that Bayh and the other drafters of the amendment thought they were providing, and I certainly do agree. You cannot give those with the most to gain from a decision the nearly absolute power to make that decision and not to expect it to be abused at some point.

Compounding the inherent danger caused by the disability clause or the technical problems; for instance, what constitutes an inability to discharge the duties of the Presidency, is this limited to medical disability, or does it include political inability to lead a country? In time of stress, and passion, and division, why not? Why could the judgment not be that the President was totally and politically unable to lead the country? The Constitution does not say that cannot be. What is the duty of the President's physician if he uncovers a serious illness which the President wishes to keep confidential? What happens to the physician-patient privilege against revealing such information? Further, if inability includes being put under anesthesia, as many believe, despite President Reagan's assertions to the contrary, does it also include being under the influence of sleeping pills? How about inebriation or even changes of mood caused by prescription medication?

With so much left to the interpretation by those who are charged with the responsibility and power of making a determination of the President's ability to discourage his duties, there is much room left for mischief, and what is the incentive that would lead the Vice President and members of the President's Cabinet to move for their own purposes under the disability clause of the 25th amendment? Look at what we have had lately, since 1945, but much more so in the last decade. We have seen a rise of the imperial Presidency in this country. I dare say that perhaps the overwhelming majority of the Members in and out of Congress, as well as a citizen, would say, if asked, that the President has more power, that he is omniscient, and that he is of greater power and authority than either of the other one of the two

branches of Government. That simply is not so, and it is in direct contradiction to our U.S. Constitution, yet our Presidents have been approaching a position of absolute authority, with greater momentum every day, and going back for some time and on a bipartisan basis.

I have been raising these issues since I came to the Congress. Look at the recent vote by Congress to give the President absolute authority to negotiate a free-trade agreement with Mexico or 160 other countries, and look at the recent votes ratifying the President's unilateral warmaking. I was one of only three, as far as I know, that criticized the Presidential order giving rise to the invasion of Panama on December 20, 1989. Where are they now? We are in occupation and governing militarily. We have over 15,000 of our troops in Panama. They are in charge and governing. That is two-thirds, more than two-thirds, than the top number we had at the time of the invasion.

So, who cares? But what does it mean? It means that Presidents, if wise, would want to have a copartnership of the policymaking body, or at least the leadership known as the Congress. Congress, a multiple body, particularly under the circumstances surrounding today, is quite unable or unwilling to rise to the occasion, and it has been for some time. But not too many years ago, take the first peacetime draft act, 1940. Congress can sure be a lot more responsive to their constituents' well-being. Yes, with great debate and hesitation they passed that first peacetime draft in 1940, but they unsetting because they would last no more than a year, but they also provided protection for the individual that might be called who would lose his job, even if temporarily.

□ 1250

So right then and there, it provided certain protections. One year later in 1941, the month of August, it came up for renewal. The Congress was not going to extend it, even then, because they realized what a far-reaching power they had given the President.

Then after much debate and one amendment by a Member of this House that said, "OK, if we extend it, it will have this proviso, that no person subject to the terms of this act shall be compelled to serve against his will outside of the continental United States, unless a declaration of war is expressly provided so by the Congress."

With that inclusion, they got the one vote that extended that bill, passed the bill, passed by one vote in the late summer of 1941, just a few months before Pearl Harbor.

What we have forgotten is that the declaration of war did come on December 8. Then when the hot shooting phase of the war ended in Europe, sub-

sequently in Japan, we forgot all about that and we kept a draft apparatus. But then I recall vividly, as if it were today, get the boys back, we have won the war, not realizing that and even today we are still under the misperception that that war is over with. Actually, we still have not too many thousand, under 300,000 troops in Germany, which sooner or later the Germans are not going to tolerate, as they are beginning not to.

Is there a peace treaty? Well, the nearest thing was the agreements that had been lately signed by Russia and the other countries on the merging of the two Germanies. But there never has been a formal peace treaty or conference terminating World War II.

In Korea, South Korea, we have about 48,000 troops and another 40,000 Americans. We have no treaty obligation for the defense of South Korea. Our meager handful of troops could hardly be sufficient to protect South Korea. The South Korean defense is greater than most of our NATO allies' defense forces, better equipped, with the most sophisticated warcraft, soldiers highly trained, and they have an army of over 65,000.

So what is the military purpose of 48,000 American military in South Korea? We have already had, just in the last 2 years, four violent demonstrations against our presence militarily there. But we are still—we are still appropriating a couple of billion dollars. What is the military purpose? Where is the leadership of the country in the executive branch, the President being the Commander in Chief of the Armed Forces of the United States?

Just the day before yesterday I saw where he is considered the Commander in Chief of the United States. That is simply not so. He is not the Commander in Chief of the United States. If he is, then we have a king. And if so, our citizens are not citizens. They are subjects. We are not citizens, we are subjects.

It is that simple, and it goes back to the fact that without any perception, we have gravitated from one situation to another without addressing the basic constitutional issue, such as the Draft Act.

Now, the President has the power, and in fact right now we have about 17½ million names of the young that have to register for the draft, 18 to 20. Our Government can in 3 hours time bring in the first call. They have got everything set up. They have even got a rental arrangement with a building downtown, and it would not take just a matter of hours. It is all set up.

Of course, the Congress has to sanction, but we do not have to pass any law or anything. We just have to sanction the President's power to carry out the draft provisions of the Draft Act. So where are we?

It took the bitter divisiveness first beginning to show its ugly head in the

Korean war. There at the end of 1953, before the armistice, whatever you want to call it, we were beginning to have the same kind of demonstrations. They had protesters in California stopping munitions trains and all, but by that time President Eisenhower got elected and he brought about the arrangements of the truce. So it did not give rise, but at the basis of that was the fact that people were being selected on a very selective basis, militating against the poor and the uneducated, to go out and die and face death while other Americans were not.

This is a tremendous transaction from World War II and the carrying out of the draft there. So I am just giving this as an example of how things can add up to an aggravated situation in a time of great passion and divisiveness that could make this amendment the most dangerous weapon we have directed at the heart of a democracy.

In our Nation's first 10 years of nationhood, which really were the First and Second Continental Congresses, the Articles of Confederation, nobody thought of having the office of the Presidency anywhere around. They feared that. The whole debate in the Constitutional Convention later in 1787 clearly reflected that all through, and certainly an unelected President, that was the worst thing they could conceive happen to our country. So they did not bother, the first 10 years of our nationhood, they did not bother having an office anything like that, no such thing as a President or a Chief Magistrate, as they called them then.

They did not want to have anything to do with that from which they were extricating themselves, tyrannical, arbitrary, capricious power. This is why the most revolutionary words ever to this day are the first words of the Preamble to our Constitution, and I have encouraged, all through my activity for years and years, students to memorize them.

I will go to elementary school students, and I will offer some little reward like a book or something to those students that memorize. Why? Because encased in those words are still the most revolutionary, that is, "We the people of the United States," not the Congress, not the President, not anybody else, but "We the people of the United States" are the source of all power in order to form a more perfect union, et cetera, et cetera. The people.

How many countries in the 20th century that have started out in the name of the people would say that that power emanated from the people? They would not even refer to it. Those were extremely radical words in a world where the whole world was governed either by kings, by divine right, or by czars or potentates or allegorics. And here there are Americans saying no, power does not come to a king from

God. Power comes only from the people.

Well, look at what is happening today. One would not think so. One would think that we were supposed to be responsible to some leader, not to the people.

□ 1300

For the first time in this world, as I said, then of kings, and today of the other system, those words came across. We have strayed away from that, so that when we end up with the possibility, in fact, the reality, that we have an unelected President and an unelected Vice President, we have a continuing sword pointed at the very heart of our democratic, constitutional form of government.

As the President gains greater and more absolute power, it is increasingly important for us to reevaluate the 25th amendment. The incentives for blind ambition to govern actions under the disability clause of the 25th amendment are stronger now than ever before. We must not allow provisions for a coup d'etat, which the disability clause establishes, to remain a part of our law.

As a nation established on the principle of the power of the people, we have provided through the 25th amendment a means of relinquishing that power and establishing it instead in a very few unelected government officials.

How can we allow this kind of Presidential power, which our Founding Fathers feared and tried to prevent, but which has grown out of any sense of proportion in recent years, to be held by an unelected President who has assumed power over the wishes of the elected President?

The 25th amendment allows this, and it is wrong. It is dangerous, and the 25th amendment should be repealed.

LEADING EMPLOYERS INTO APPRENTICE PARTNERSHIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. GRANDY] is recognized for 60 minutes.

Mr. GRANDY. Mr. Speaker, I am taking this time today to discuss with the membership a bill that has been introduced recently, which I had the privilege to introduce with five Republicans and five Democrats, H.R. 2550, the acronym of which is LEAP [Leading Employers into Apprentice Partnerships].

The purpose of this special order today, Mr. Speaker, is to really have a kind of electronic "Dear Colleague" with those Members who have not become familiar with this piece of legislation.

To put it in the proper context, let me begin by reading from "America, 2000." Those Members that are not aware of "America, 2000" should know

that this is essentially the President's blueprint for educational reform for this country. This is the document that the President and Secretary Alexander and our Nation's Governors and various business leaders have crafted to kind of pave the way for educational reform, and in some cases, radical reform, for this country.

I am not going to be dealing directly with the main thrust of this book, which is elementary reform and secondary reform. I want to turn to page 69 of this document and read from what they call the after-school years. Because it is my contention, and one of the reasons that I introduce this legislation, that we have not paid enough attention as a society and as a government to those people that find themselves after school without any opportunities whatsoever.

That is directly related to the fact that while they were in school they did not get the education, the basic skills that they needed, to put themselves into the work force and become skilled laborers.

But let me read some paragraphs from this, because it basically sets forward our strategy, supposedly, as government, to these individuals who have not been well-treated by our present public education system.

Comprehensive, well-integrated, lifelong learning opportunities must be created for a world in which three of four new jobs will require more than a high school education. Workers with only high school diplomas may face the prospect of declining incomes, and most workers will change their jobs 10 or 11 times over a lifetime.

In most States the present system for delivering adult literacy services is fractured and inadequate. Because the United States has far higher rates of adult functional illiteracy than other advanced countries, a first step is to establish in each State a public-private partnership to create a functionally literate work force.

In some other countries, government policies and work programs are carefully coordinated with private sector activities to create effective apprenticeship and job training activities. By contrast, the United States has a multilayered system of vocational and technical schools, community colleges, and specific training programs funded from multiple source and subject to little coordination. These institutions need to be restructured so that they fit together more sensibly and effectively to give all adults access to flexible and comprehensive programs that meet their needs. Every major business must work to provide appropriate training and education opportunities to prepare employees for the twenty-first century.

Finally, a large share of our population, especially those from working class, poor, and minority backgrounds, must be helped to attend and remain in college. The cost of a college education as a percentage of median family income has approximately tripled in a generation. That means more loans, scholarships, and work-study opportunities are needed.

I chose to begin my remarks with that quote, Mr. Speaker, because I want to talk about the disparity be-

tween word and deed, the difference between what we are preaching and what we are practicing, in Congress and, indeed, as a Government at large.

It is not a question, when we talk about education, whether we are talking about afterschool or preschool education, of how much money we spend. It is a question of how do we spend the money that we have?

With that in mind, having just read several paragraphs of governmental intent, let me talk about the practical effect of how our educational dollars are going for those people that are coming out of high school and looking for work opportunities.

Let me refer to this first chart and talk about three, I think, very important points that show the difference between word and deed in our educational policy.

First, about 66 percent of our Federal education dollars are spent on 30 percent of the high school students who are college bound. In other words, 70 percent of those students that get out of high school, or do not finish high school, are without any real major means of funding.

What does that necessarily translate to? That means under our present system, a college bound student in this country can expect to get about \$5,000 per year in combined subsidies. A noncollege bound student, what we will now call and probably call for years to come the nontraditional student, can probably expect an average of \$50, one one-hundredth of what our college bound population can expect. If this nontraditional student ends up in jail, he or she gets a nice big subsidy, but that is hardly the point. The point is how do we keep that eventuality from happening?

Look at the difference between what we are doing in this country and what our competitors around the world are doing in terms of putting their commitment into moving a trained, and in many cases highly developed skill force, into the front lines of competition.

U.S. competitors spend an average of 4 to 6 percent of their payroll on worker training, while U.S. business spends less than 1½ percent. Of this 1½ percent spent on worker training, 66 percent is invested in the already college-educated employees.

In other words, if you are in the work force, if you have a college degree, your employer probably will spend more money making sure that you get an advanced degree, increased training, than he will on the bottom rung, or the front line worker who, in many cases, probably is more deserving and more desperate to receive that training.

We have a shrinking work pool in this country. Any demographic study will tell you that, from the Bureau of Labor Statistics down to just about any Member of this body. But very

often when we talk about Government policy and when we talk about competitiveness, we mention the word "capital" and we talk about capital formation, we talk about plants and equipment, and research and development for which we are currently proposing a 20-percent tax credit, or we talk about cash, access to funds.

What we very infrequently talk about when we talk about capital and competition in this country is human capital, our workers, our labor force, and how we are going to proceed to prepare them, and in so doing, us, for the 21st century.

Now, as anyone within the sound of my voice knows, we are in the middle of a recession right now, perhaps bottoming out, perhaps not.

□ 1310

The point is that when the economy was going full tilt, many employers were basically grasping at any workers they could find. They were giving what is now called the steamed mirror test. In terms of employment, that means if you can walk up to a mirror, exhale, and the mirror steams, you have got the job.

But the workers we are talking about for the 21st century have to be trained with both advanced and basic skills. A work force without advanced skills cannot compete with our developed trading partners, a work force without basic skills cannot compete with developing countries.

While we talk about what we are going to do to become more competitive with Japan and Germany, we really are falling behind some of the countries that we are providing aid to, because we are not investing enough of our time, talent, and our attention into this work force of nontraditional students.

Let me go a step further and say that as a member of the Committee on Ways and Means, I have now sat through 2 or 3 weeks of hearings on competitiveness. We are having an exhaustive review of how this Nation can become more competitive, and everybody from the Speaker of the House down to business executives and union leaders have come in and said that what we need to do is recommit to education. There is no argument with that. Everybody believes in that. Sure, we will quibble over how much money to spend and how the money should be spent, but everybody believes that a competitive America has to be a highly educated America.

There has been some discussion during these competitiveness hearings of trying to create work-study or apprentice programs or the work-study opportunities fleetingly referred to in this document that I read earlier, but very little legislative attempt to kind of plant that seed and create a mechanism by which business and govern-

ment and communities and professional educators can actually plant and harvest our human capital and prepare for the 21st century.

Quite honestly, some of the most compelling testimony I have heard has come from business, and specifically the words of William Kolberg, who is the president of the National Alliance of Business, who was a witness at the Ways and Means hearings on international competitiveness said this in his speech a few months ago, he said:

The last frontier of international competitiveness, I submit, is the work force. It is the one component we can't export or import with ease and quantity. Those nations that build the best educated and trained workers into internationally competitive skill forces will draw the high-skill industries and, thus, enjoy the higher standards of living. Those nations that have undereducated and undertrained workers will increasingly be forced to compete on the basis of low wages and, thus, suffer lower standards of living.

That is significant in this Congress, because one of the major pieces of legislation we have thus far passed is the North American Free-Trade Agreement, our free-trade agreement with Mexico. One of the major arguments levied against support for that trade negotiation was that by grafting onto American capital a country that is rich in human resources but very poor in development such as Mexico, we would basically just wind up exporting cheap labor and cheap-labor jobs to Mexico.

Well, those of us that supported the North American Free-Trade Agreement believed that what we really had the opportunity to do was raise the standard of living in Mexico, raise the wage base, raise the opportunity, and in so doing, probably create more higher paid jobs. But if we do not begin to invest in our workers in this country, the fears of the opponents of the North American Free-Trade Agreement will probably become a reality.

Unfortunately, as I said earlier, for all of the lofty comments being made by businesses about how important their work force is, we are still way behind our foreign competitors. Coincidentally, America and Germany right now, in terms of public funds, are spending about the same on their public education systems, about \$300 billion annually, and that includes Federal, State, and local subsidies.

But the difference, of course, is then what is happening with business and through business.

Where do we go from here? In the competitiveness hearings held by the Committee on Ways and Means, we heard testimony from a great number of witnesses, and most witnesses testified on such things as research and development tax credits, and, again, when I am talking about that, I am talking about bricks and mortar, plant and equipment, and various allocation formulas for multinational corporations and the high cost of capital. A

few witnesses testified on the training programs their agencies, business, or industries are undertaking.

In order to improve this Nation's human capital, and there are some outstanding leaders, Mr. Speaker, that are doing this, Motorola, Corning Glass, American Express have all kind of created career academies and work reorganization and work training and apprenticeship programs which really, I think, are the best that we have to offer in the business community. But there is a demand for American business to play a larger role in making that transition from the work force to the skill force.

Right now big businesses can afford to undertake education programs. Why? Because they can see the macroeconomic effect of their investments. They can afford the cash flow of education programs. They can devote a number of personnel without severely impinging upon their productivity. That is wonderful.

But what about small business? What about most of the businesses in this country, most the businesses that create most of the jobs in this country?

Right now only about 13 percent of the small firms in this country offer any formal training to workers with less than a high school degree. And why? Well, because they cannot afford the investment. In many cases, if they do invest in some kind of worker training program, if they do actually try to expand their work force and specifically train workers and perhaps even better their education, what they invariably wind up doing is losing those trained workers to a larger firm. So obviously there is no cost-benefit relationship to that investment, because why train a worker, spend your money, for somebody else.

However, if small businesses can join together, they can see these effects just like a big business can. With that in mind, my colleagues and I have introduced Leading Employers into Apprentice Partnerships, or the LEAP Act.

Let me take a moment to describe this in detail, Mr. Speaker, because this may sound complicated, but, indeed, it is quite simple.

It is predicated on the belief that businesses and communities have a mutual interest in replenishing the skill force in their own communities, whether they are large or small, but unfortunately, right now, they do not have the mechanism by which to do it. The LEAP Act provides that mechanism.

Through the Tax Code, the LEAP Act would encourage businesses to get together and contribute funds into one pot, a 501(c) nonprofit tax-exempt organization that would fund apprenticeship programs in conjunction with local community schools and community colleges. This is not a top-down

educational reform that is handed down from the Secretary of Education to various State bureaucrats and back to the communities. It is a tax credit that goes to those businesses and those leaders in the community and allows them to form the model that they need to address the skill needs of their communities.

Notice in the chart here the need in the business community for skilled employees. That is probably true in every town and city in this country. Businesses provide money for a nonprofit organization and create guidelines for the apprentice program.

In this particular apprentice program, you would have not just business, although because they are obviously investing in this, they would probably have a majority of seats on the board of the tax-exempt nonprofit organization, but you would also have probably leaders from the educational system, whether or not we are talking about the high school or the community college or both, and you would no doubt have governmental leaders of the community, and you would probably also have the apprentices or perhaps their parents or both designing the apprentice program. It follows then that business and the school partnership establish the structure of the apprentice program, and by that, I mean a work-study opportunity.

Students would attend the apprenticeship programs at local businesses for school credit in addition to academic programs at school, and here is what you wind up getting: on the microeconomic level, the business is going to wind up with employees that are gaining basic skills as well as specialized skills.

□ 1320

They are reinvesting at a local level for a specific task. Community work forces reskilled and replenished with a minimal of oversight by business, or for that matter, by Government.

The tax-exempt organization is designing, implementing, and operating the program. The schools get an increase in class resources seeded by business, increase in class attendance, because what we have added here is purpose. The one thing perhaps missing in our educational system right now is a reason to stay in school. Students cannot understand why they should stay in school. They cannot understand what the connection is between what they are learning in a classroom and what they will need in life.

Finally, your graduation rate will go up. What happens on the macroeconomic level, unemployment probably goes down because we have more people not just getting skills, but getting a job with those skills. Federal assistance probably is decreased through unemployment insurance compensation, and welfare, public assistance

programs that are usually designed to help those people that have been thrown out of the workplace due to lack of skills.

We have an increase in funds devoted to education, with no increase in Federal bureaucracy. Speak to any teacher about that right now. Just about any teacher I deal with in my congressional district, Mr. Speaker, will profess to say they got into this profession under a false premise. They thought they would be allowed to teach. What they are doing now is filling out forms and going to meetings. Hopefully, this will be able to translate a little bit into their freedom to perform their job.

Increased productivity, increase in competitiveness. Let me dwell just for a moment again on the makeup of the board; 51 percent control of the local businesses. Do not forget this can be a consortium of businesses, and in most small towns would; 49 percent would be the community high school and college staff, if there is one in their community. Trainees or parents of trainees, State and local officials in this, such as mayors, State representatives and senators. If there is a secretary of education in the State or liaison from the Governor's office, so much the better. The purpose here is to bond business into the community for a common community goal. That is what is missing in our after school programs right now.

We have a lot of top-down funding for job skills. The Job Training Partnership Act, section 127 of the Tax Code is employer provided education. That helps. The targeted job tax credit helps.

Almost invariably, the hoops and hurdles people have to go through to qualify for these credits are dictated by an agency or bureaucracy, beyond the community's auspices. That is what this act seeks to reverse.

Now, basically, it would give schools new vocational opportunities while providing the resources to match. The reason this is important and timely right now is just like the Federal Government, which is going through obviously a period of contraction in trying to deal with their deficit, that is happening now in the State/local. My State of Iowa has a \$300 million deficit. There has been a cutback, of State-provided services, which has meant fewer agencies being open shorter hours. It is unlikely, then, we will see a lot of new education initiatives coming from our governmental organizations, because they do not have the money to fund them. However, because of tight Federal budgets, Congress cannot afford to pick up the whole cost. So we need a new player.

The obvious player in this particular scenario, Mr. Speaker, is business. Who, more than they, have a vested interest in replenishing our work skills? When I say "business" I do not mean to

imply that labor does not. Organized labor has traditionally been one of our greatest repositories of work skill training. This is designed to help them as much as the management side of the equation.

Now, how would this tax incentive work? The bill is a tax bill, amends no other existing language than the Internal Revenue Tax Code and provides dollar-for-dollar matching funds from the Federal Government. The first part of the incentive is the deduction.

Right now, business can receive a deduction for contributions to a tax-exempt organization. That is worth about 34 cents on the dollar, if a company is paying a 34-percent corporate tax rate. The second part of the incentive, the new part, really is the 20-percent tax credit. Business would receive a 20-percent tax worth roughly 20 cents on the dollar. Together, these incentives would equal roughly 50 cents on the dollar, dollar-for-dollar matching funds. Businesses would have to put their money up front in order to see the tax offsets from the Government, but what we have now is a real incentive for businesses, large and small, to seek out work opportunities and train for those opportunities, and in so doing, put some pressure on their local education establishments to increase the basic skills, so that their potential work force can get those jobs.

Now, the American work force that I have been talking about, whom this act is trying to help, to help into apprenticeships, is a very multicultural phenomena. As we know, it is not the 30 percent of kids that will go on to college, the ones that are already, to a large degree, subsidized. We are talking about high school students and high school dropouts. We are talking about community college students who are returning for education, after perhaps many years out of the educational mainstream. We are talking about displaced homemakers. We are talking about former prisoners and substance abusers. We are talking about immigrants, nontraditional workers, which a major news publication in this country has referred to as the "forgotten half." And we know it is considerably more than 50 percent.

Now, we cannot afford to forsake these people. We do not have the luxury of hiring only college-educated individuals, and we cannot afford to have workers pass only the steamed mirror test in order to get a job.

Incidentally, I might say to this point, Mr. Speaker, one of the main cosponsors of this bill is the gentleman from New York [Mr. RANGEL], who represents Harlem. Now, his district and my district could not be further apart, probably, in terms of their ethnic balance. I come from northwest Iowa. It is a small town, predominantly rural congressional district. He comes from Harlem, a big-city multicultural district.

Ironically, we have a lot of the same problems, a lot of displaced workers, reduced opportunity, a lot of nontraditional students. Consequently, the needs in the urban area and the needs in the rural areas are melded under a program like this, because they are designed close to home.

With that in mind, I am hoping that Members from both urban and rural constituencies will look favorably on this kind of legislation, because studies show that a significant portion of our students will learn better, as I said earlier, if they have a purpose, if there is some kind of work force incentive tied to that. Vocational education is the way we will keep many of our noncollege-bound kids involved and interested in school.

Now let me go to an example, a concrete example, of how this would work. This would apply just about anywhere. We will say there are a group of florists, and I chose them because florists tend to be typical small businesses, few employees, but like so many employers, looking and not finding the skilled labor that they need.

Under the LEAP Act, a group of florists could get together and contribute funds into a LEAP organization, into a tax-exempt entity, in order to fund an apprenticeship in that field. The work skills learned might include floral arranging, might include account keeping, and basic business skills of taking customer orders and office etiquette. In exchange for the opportunities to get some work-based learning, the apprentice is required to take additional classes in science. We will say horticulture, perhaps botany, and perhaps a business class or two.

It is in these more advanced academic requirements that students may finally see the reason that good reading, writing, and arithmetic skills are necessary. Academic course work that may seem dull to a high school junior will take on a new appeal when there is a work-based learning component to accompany. At the same time, students are getting a basic academic education. They are getting vocational education inside the businesses for which they might one day work, and while the work on the florist shop might not lead to a career in that field, the classroom work and basic job skills learned will stay with the students for a lifetime. So in other words, if a group of florists in a medium-sized city decide to replenish work skills, they turn back the high school or perhaps community college and say, "We will pay for you to teach a few basic courses that we need for our industry, such as botany, horticulture, perhaps some business math, but we are depending on you to provide at least some basic educational skills to these students so that by the time they get to their advanced learning, they will have the basic fundamentals to cope with the new curriculum."

That puts some legitimate pressure on local educational systems to deliver the goods. It also goes back to that question of purpose, the administrators, the teachers, the PTA can turn back to the students and say, "Now you know why you are in school. Businesses in this community are providing an opportunity for you which you may or may not use, but at least right now it is better than standing in the unemployment line."

□ 1330

In so doing it provides some purpose. Now, just coincidentally, and somewhat ironically, the Secretary of Labor, Lynn Martin in today's Washington Post talks about "Teaching Tomorrow's Skills." She has recently received a report from the Secretary's Commission on Achieving Necessary Skills. Let me read just one paragraph from her editorial in today's Washington Post:

When I visited Union apprenticeship programs, the value of contextual learning was driven home when many young people told me that they finally understood why learning basics such as math was important. They said, "It's needed for the job."

Hence this bill, Mr. Speaker, to provide purpose to an eroding educational system that is providing a lot of instruction and is very process oriented. It is not outcome oriented. We process a lot of people through the system. We give them degrees. We send them on their way and invariably they wind up coming back, diploma in hand, but with really no productivity to show for it. If we want to go to an outcomes-based educational system, if America 2000 is going to mean something, we have to build purpose all the way through the system. I do not think it is too much to say to a 16-year-old or a 26-year-old who has had a variety of educational opportunities, but nothing really to show for it, that now we are going to create that connection between your work and your study.

Many of the purposes of this legislation are not to create anything new, but to use the existing facilities and capabilities that we have. We make use of the existing bricks and mortar, whether we are talking about a high school or whether we are talking about a community college, and we are using teachers already on State payrolls.

There is nothing, of course, to keep a business from saying, well, we want some of our employees to teach these courses; but because they are creating this Board and using the available talent pool in their educational system, it stands to reason that they will use those people best capable to make an educational contribution.

It makes use of existing Job Training Partnership Act structures and local private industry councils.

Indeed, as a member of the Education and Labor Committee for 4 years, we

worked closely with private industrial councils when we were reauthorizing the Vocational Act, the Perkins Act.

This to a very large degree is a self-help variation from the Carl Perkins Act; but most importantly, it draws on the talent and resources of the local community. The staff of the tax-exempt organization would work on scheduling the apprentice's time, drafting specific workplace learning goals, and in cases where applicable handle payroll or transportation for the apprentices.

Unlike most Federal programs, Mr. Speaker, this one stops when it is not working anymore. If businesses find that for some reason the purpose has run afoul of the original intent, if the tax-exempt organization is not working out, they can scrap it and start over or re-form into another group—no existing Government infrastructure which eventually begins to feed on itself.

Now, briefly let me talk about one of the criticisms of this kind of a system that invariably comes up when you propose these kinds of educational tax credits.

What about abuse? What about the employer who uses this tax credit in a sense to not really further the skill force of the community, but really kind of views Federal dollars to improve the very limited skills of an already very professional work force?

Fortunately, the Internal Revenue Code already contains some very serious antiabuse roles for tax-exempt organizations. The LEAP Act creates a new form of section 501 tax-exempt organization that is permitted to carry out these apprentice programs.

There are two forms of tax-exempt entities: public charities and foundations or private charities. A public charity, such as the American Cancer Society, has broad public support and gives funds to a broad cross-section of the public. A foundation, on the other hand, sometimes called a private charity, and that would be something like the Ford Foundation, has a narrower funding source and gives to a relatively narrower cross-section of the public. Foundation tax report rules are much more stringent than those for public charities.

The Internal Revenue Code is written in such a way as to call a new tax-exempt corporation a foundation. Unless it notifies the IRS that it is not a foundation and receives a determination letter from the IRS, that it is in effect a public charity. The IRS, in other words, has to make that determination.

Technically, this is called defining the term in a negative way. Section 509 of the Code calls organizations "private foundations" unless the organization receives more than one-third of its funding from forces such as grants, gifts, or contributions.

The partnership organizations created in the LEAP Act must file a timely notice with the IRS in order to qualify for tax-exempt status and to determine whether they are public charities or foundations. Provided that a particular LEAP organization is relatively broad-based, the IRS would then provide the organization with a determination letter stating that it is a tax-exempt public charity and give it a tax-exempt number. So already there is a system of oversight and review that unscrupulous employers would have to deal with from the very beginning.

All section 501 organizations must file an IRS form 990-PF, which is an information return. In the last few years the IRS has announced that it would step up auditing 990-PF forms and private foundations must also file a form 4720 for certain transactions.

The auditing of LEAP organizations or even the threat of audit, along with the penalties for misdeeds, should be enough to keep these organizations honest and worthy of their tax-exempt status, we hope.

But still, is it not better to at least give an incentive back to the community, as opposed to imposing a mandate on that community? Unfortunately, very often, although that is not the intent of some of our job training programs in our employment services that we provide through the Department of Labor and other Federal bureaucracies back to the States, what happens is the regulations are such that they discourage people from seeking training.

One of the big problems that may be encountered with organizations, such as the one I have described, would be areas of investment income and failure to distribute income. These problems would be covered under the prohibited transaction section 503 of the Code. These prohibited transactions would be: No. 1, lending money without adequate security and reasonable rate of interest; No. 2, pay and compensation in excess of reasonable allowance for salaries for other compensation for personal services actually rendered, or making any part of its services available on a preferential basis to the creator of the organization if the person or corporation made a substantial contribution.

What that basically says is a law firm is not going to be able to set up a tax-exempt organization to take its already highly educated work force and teach them at taxpayer expense a new and subtle and complicated form of the law to expand their business. That is why we are not necessarily giving the money to the businesses; we are giving the money through the businesses to the tax-exempt organizations, and it is the board who will decide.

Now, if for some reason a community decides unscrupulously to manipulate this board in such a way, then yes, probably the Federal Government

would step in; but unlike any other kind of tax credit that I know, Mr. Speaker, this particular piece of legislation, H.R. 2550, forces accountability because we are forcing businesses and communities to watch themselves, so the policing mechanism again is at the local level, because the purposes and goals are at the local level.

Now, I have introduced this legislation, as I said, with the gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. HOUGHTON], who is the former chairman of Corning Glass, and as I said, five Republicans and five Democrats.

I cannot tell this body right now how much this tax credit costs. The Joint Tax Committee is currently looking into what kind of revenue offsets might be needed, and unfortunately I cannot tell you at this time how expensive this bill is to America.

I can tell you that the 20-percent R&E tax credit will probably cost the economy about \$1.8 billion over the next 5 years.

I would only argue, is it not as important to invest in human capital in this country as it is to invest in bricks and mortar and technology?

I would also say that are there not some savings to be derived if a bill like this actually works and in so doing we find we are less dependent on things like the Job Training Partnership Act or the Targeted Jobs Credit, or various other mechanisms that we have built into our Tax Code and into our Federal oversight that is designed to help people who have already lost an opportunity?

This bill is designed to help the people before they lose the opportunity. And I would argue that although I cannot from a joint tax point of view numerically say this is a savings of tax dollars, in terms of the investment in public policy I would have to argue that a bill like LEAP probably redirects the money where we want it to help those people before they lose their sense of purpose.

So, Mr. Speaker, that was the purpose of this special order today. I would encourage Members who are interested in finding out more to contact my office. I really feel as though this is a direction, if this country is going to talk about competitiveness, we have to talk about something more than capital gains, tax credits for research and experimentation and various, what have become known as, business-oriented tax credits.

This is a business-oriented tax credit, but it is the business of education that this country has to begin investing in. Federal Government, State government, local government cannot afford to do it. We do not have the revenues, we do not have the desire to raise our taxes to provide the revenues; because of that, Mr. Speaker, business large and small cannot afford not to.

A HISTORIC MEETING WITH DR.
EDWARD DEMING

The SPEAKER pro tempore (Mr. VOLKMER). Under a previous order of the House the gentleman from Georgia [Mr. GINGRICH], is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, as many people know, Dr. Deming is in many ways the founder of the quality movement, as the man who initially in the late 1940's and early 1950's educated the Japanese into the process of quality, and into creating a culture of quality, and he was brought into the Capitol today. He is now in his early nineties. He spoke with a number of Members of Congress and senior staff people and members of the executive branch from the White House who came up to sit in and talk with him and learn about ways in which America has to change.

I want to particularly thank Speaker FOLEY and Republican leader BOB MICHEL for helping us with this particular project, getting Dr. Deming up here.

The thing I want to share with my colleagues is that Dr. Deming talks about a transformation, he talks about a change which he says is the same as taking ice and turning it into water. He says that if you are really going to compete in the 21st century, if you really want to have quality as it applies to health, to education, to manufacturing, to Government, it is not just reshaping what we already do, it is not just taking a block of ice and making it look different by making an ice sculpture. It is in fact a fundamental change, a transformation from the way we have been in the habit of thinking and doing things to a very different way. He uses the analogy of ice to water, the notion that you have to apply heat. He makes this point, in part, because he says that the greatest single problem has been good intentions, the people with the best of intentions and the best efforts; that people, as he puts it, who do not have basic knowledge, and he referred over and over this morning to the concept that you have to have profound knowledge and that profound knowledge comes from a really deep study of what leads to quality.

And the first step in leading to quality is the concept of the system, the idea that people are a team, that they are involved with each other in achieving things and that they have to learn to rely on each other in a cooperative way in order to get things done.

He made what I thought was an absolutely fascinating point about the difference between the pyramid in which we normally talk about hierarchies and a flowchart. He said that in the pyramid it may tell you who is in charge at the very top of the pyramid but it does not tell you what anybody is doing, it does not tell you what their real rela-

tionships are. He said that "in a flowchart I begin to understand what my job is, how it relates to jobs before me and how it relates to jobs after me, and I begin to understand why I am part of a larger system and myself. And I begin to find why my work has purpose." He drew the analogy of having to wash down a table. He said, "Now, am I cleaning this table off so you can use it as an office; am I cleaning the table off so you can use it in a restaurant; or am I cleaning it off so that it is an operating-room table?" He said there is a whole different standard of cleanliness for each of those three functions, a different kind of purpose. I am relating to different kinds of people. Am I relating to a secretary or to a surgeon as I design my job? And I think the point he is making is that if you start by thinking about the entire team, the team's function, the way the team works, you have a very different approach to getting the job done and a very different approach, if you will, to playing the game or to learning that if you approach it only from the standpoint of a hierarchy.

The other insight he offered was the distinction between games, we have winners and losers, and the rest of life. He made the point that, in learning, everybody can win, in learning, everybody can achieve a set standard, that you do not have to have a top 1 percent or a top 5 percent or a top 20 percent; that in fact if your goal is for everybody to learn how to read, it is possible to have a society in which for all practical purposes every person learns how to read. It is possible in a society in which every person learns how to do basic math. And that the difference between starting by grading people very early and telling them, "Well, you are really in the bottom 10 percent," leads a lot of them simply to drop out; it creates a sense of internalized distinction that leads people to be crippled and to feel psychologically humiliated and ultimately to be no longer participants.

Dr. Deming emphasized over and over the notion that you want to set standards that everybody reaches and you want to bring everybody along to that fulfillment. That you want everybody to have a chance to learn and everybody to have a chance to succeed and everybody to have a chance to be productive. In that way, the entire team is better off.

I found it a fascinating experience to deal with a man who participated in the studies at the Western Electric Hawthorne plant back in the mid-1920's, a man who helped develop our entire approach to the postwar world and who, by his work on General MacArthur's staff in 1947, had an initial introduction to Japan, a man who developed a general approach to thinking about systems, to thinking about variation, to thinking about dealing with human beings which allowed him to de-

velop what I believe is the most powerful model for working together in the information age, and which I think will be for the 21st century the same kind of breakthrough that the assembly line, Henry Ford and Taylor's scientific management were for the 20th century.

Also I just want to say to my colleagues we had a very impressive morning, we had an opportunity to learn from a man who is a legend, we had an opportunity to begin a relationship of applying the quality of Congress, the executive branch, American culture, which I hope we will continue to foster and develop. I think it was a historic moment. For those of my colleagues and their staffs who could not be there this morning, we did have it videotaped, so it is possible to get a copy of the videotape and to see Dr. Deming on Capitol Hill and see the kind of ideas he has for how we can transform the system in the future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATRON (at the request of Mr. GEPHARDT), from July 17 through August 5, 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. GRANDY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each day, on August 1 and 2.

Mr. GINGRICH, for 60 minutes each day, on July 29, 30, 31, August 1 and 2, and September 11, 12, and 13.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GRANDY) and to include extraneous matter:)

Mr. GRADISON.

Mr. BLILEY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. TRAXLER.

Mr. LANTOS in two instances.

Mr. COOPER.

Mr. SYNAR.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 751. An act to enhance the literacy and basic skills of adults to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

[Inadvertently omitted from the Congressional Record of Thursday, July 18, 1991]

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, WA, and for other purposes;

H.R. 998. An act to designate the building in Vacherie, LA, which houses the primary operations of the U.S. Postal Service as the "John Richard Haydel Post Office Building";

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, TX, as the "Carl O. Hyde General Mail Facility," and for other purposes; and

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week."

SENATE BILL REFERRED

[Inadvertently omitted from the Congressional Record of Thursday, July 18, 1991]

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 992. An act to provide the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV; to the Committee on the Judiciary.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 23, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1784. A letter from the Deputy Assistant Secretary (Environment), Department of Defense, transmitting a report on the DOD Environmental Compliance Program for fiscal year 1992-97, pursuant to Public Law 101-510, section 342(b)(4) (104 Stat. 1537); to the Committee on Armed Services.

1785. A letter from the Chief of Staff, Office of the Secretary of Health and Human Services, transmitting a status report of outstanding HHS reports to the Congress; to the Committee on Energy and Commerce.

1786. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Oman for defense articles and services (Transmittal No. 91-34), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1787. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 91-35), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1788. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Morocco for defense articles and services (Transmittal No. 91-33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1789. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Brazil for defense articles and services (Transmittal No. 91-36), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1790. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Mexico (Transmittal No. DTC-39-91), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1791. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Robert Clark Barkley, of Michigan, to be Ambassador to the Republic of Turkey, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1792. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1793. A letter from the Vice President, Farm Credit Bank of Springfield, Springfield Bank for Cooperatives, transmitting the annual report of the Group Retirement Plan for Agricultural Credit Associations and Farm Credit Banks in the First Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1794. A letter from the Chairman, Federal Election Commission, transmitting copies of proposed regulations governing the public financing of Presidential primary and general election candidates, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

1795. A letter from the Chairman, Federal Election Commission, transmitting copies proposed regulations governing disposition of excess campaign or donated funds by

Members of Congress, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

1796. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1797. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1798. A letter from the Director, Office of Personnel Management, transmitting copies of the Civil Service Retirement and Disability Fund annual report for fiscal year 1989 and 1990, pursuant to 5 U.S.C. 1308(a); jointly, to the Committees on Government Operations and Post Office and Civil Service.

1799. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the methodology and rationale used to establish a payment rate for the drug erythropoietin [EPO] and a plan for ensuring the appropriateness of rates in the future, pursuant to Public Law 101-239, section 6219(c) (103 Stat. 2254); jointly, to the Committee on Ways and Means and Energy and Commerce.

1800. A letter from the Secretary of Health and Human Services, transmitting a report on Medicare coverage denials for home health agency, skilled nursing facility and hospice services, pursuant to 42 U.S.C. 1395; jointly, to the Committees on Ways and Means and Energy and Commerce.

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. ANDREWS of Texas:

H.R. 2962. A bill to grant temporary duty-free treatment to fuel grade tertiary butyl alcohol; to the Committee on Ways and Means.

By Mr. GILCREST:

H.R. 2963. A bill to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LOWERY of California (for himself, Mr. HUNTER, Mr. CUNNINGHAM, Mr. MOORHEAD, and Mr. PACKARD):

H.R. 2964. A bill to provide for comprehensive immigration border control through improvements in border enforcement and security; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. SCHUMER:

H.R. 2965. A bill to direct the Secretary of the Army to develop a prevention monitoring program for zebra mussels throughout the New York City water supply system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SYNAR (for himself, Mr. LENT, Mr. BLILEY, and Mr. COOPER):

H.R. 2966. A bill to amend the Petroleum Marketing Practices Act; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. GONZALEZ:

H.J. Res. 310. Joint resolution proposing an amendment to the Constitution of the United

ed States to repeal the 25th amendment to that Constitution; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

236. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to fire ants; to the Committee on Agriculture.

237. Also, memorial of the Legislature of the State of Louisiana, relative to on-the-job training subsidies; to the Committee on Education and Labor.

238. Also, memorial of the Legislature of the State of New Hampshire, relative to automatic dialing devices for telephone solicitations; to the Committee on Energy and Commerce.

239. Also, memorial of the Legislature of the State of Maine, relative to the Women's Health Equity Act of 1991; to the Committee on Energy and Commerce.

240. Also, memorial of the Legislature of the State of Louisiana, relative to applying restrictions to legislative bodies; to the Committee on House Administration.

241. Also, memorial of the Legislature of the State of Louisiana, relative to Veterans hospitals; to the Committee on Veterans' Affairs.

242. Also, memorial of the Legislature of the State of Louisiana, relative to Federal impact assistance funds from outer continental shelf oil and gas activities; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 330: Mr. MAZZOLI.

H.R. 357: Mr. TRAFICANT and Mr. WILSON.

H.R. 393: Mr. ZIMMER.

H.R. 806: Mr. FROST.

H.R. 1184: Mrs. PATTERSON, Mr. JONES of North Carolina and Mr. CRAMER.

H.R. 1226: Ms. NORTON.

H.R. 1293: Mr. LEWIS of Georgia.

H.R. 1300: Mr. MFUME.

H.R. 1385: Mr. CLAY, Mr. LEWIS of Georgia, and Ms. NORTON.

H.R. 1424: Mr. DWYER of New Jersey.

H.R. 1456: Mr. SKEEN, Mr. KYL, and Mr. LIVINGSTON.

H.R. 1472: Mr. MURPHY, Mr. PETRI, Mr. MCDADE, Mr. BROWDER, and Mr. STAGGERS.

H.R. 1473: Mrs. UNSOELD.

H.R. 1768: Mrs. LOWEY of New York, Mr. RANGEL, Mr. TORRICELLI, and Mr. PALLONE.

H.R. 1944: Mr. STUDDS.

H.R. 2089: Mr. ANDERSON, Mr. DUNCAN, Mr. MATSUI, and Ms. PELOSI.

H.R. 2092: Mr. BELENSON, Mr. RAMSTAD, Mr. RANGEL, Mr. WEISS, Mr. OWENS of Utah, Mr. POSHARD, Mr. SMITH of New Jersey, Mr. MACHTLEY, Mr. LEHMAN of Florida, Mr. HORTON, and Mrs. SCHROEDER.

H.R. 2218: Mr. BUNNING.

H.R. 2294: Mr. RAY, Mr. COMBEST, Mr. CAMP, Mr. DOOLITTLE, Mr. OXLEY, Mr. PETERSON of Minnesota, and Mr. OWENS of Utah.

H.R. 2550: Mr. TOWNS and Mr. PARKER.

H.R. 2553: Mr. LEWIS of Georgia and Mr. LOWERY of California.

H.R. 2579: Mr. JOHNSTON of Florida.

H.R. 2604: Mr. FRANKS of Connecticut and Mr. JOHNSON of Texas.

H.R. 2624: Mr. KOLTER, Mr. MFUME, Mr. SABO, Mr. HUBBARD, Mr. SMITH of Florida, Mr. JONTZ, Mr. DEFazio, Mr. TORRES, Mr. SLATTERY, Mr. COSTELLO, Ms. WATERS, and Mr. ERDREICH.

H.R. 2782: Mr. MILLER of California.

H.R. 2810: Mr. JOHNSTON of Florida and Mr. MACHTLEY.

H.R. 2830: Mr. ECKART.

H.R. 2879: Mr. PENNY, Mr. COSTELLO, and Mr. WALSH.

H.R. 2929: Mr. MINETA and Mr. HENRY.

H.J. Res. 102: Mr. ROEMER, Mrs. COLLINS of Michigan, Mr. HYDE, Mr. HUTTO, Mr. MRAZEK, Mr. RAY, Mr. RIGGS, Mr. RINALDO, Mr. YATES, Mr. PERKINS, Mr. PURSELL, Mr. STUDDS, Mr. ACKERMAN, Mr. RIDGE, Mrs. KENNELLY, and Mr. NEAL of North Carolina.

H.J. Res. 177: Mr. LANTOS, Mr. HYDE, Mr. FEIGHAN, Mr. HALL of Texas, Mr. MCEWEN,

Mr. MCNULTY, Mr. LANCASTER, Mr. SPENCE, Mr. SAXTON, Mr. DOOLITTLE, Mr. BENNETT, Mr. HAMMERSCHMIDT, Mr. PURSELL, Mr. BORSKI, Mr. ERDREICH, Mr. HAMILTON, Mr. JONES of North Carolina, Mr. MURPHY, Mr. HASTERT, Mr. GONZALEZ, Mr. MINETA, Mr. OWENS of Utah, Mr. NEAL of Massachusetts, Mr. MORAN, Mr. NATCHER, Mr. HUGHES, Mr. WOLPE, and Mr. YATRON.

H.J. Res. 241: Mr. CHANDLER, Ms. COLLINS of Michigan, Mr. CRAMER, Mr. GORDON, Mrs. LOWEY of New York, Mr. MANTON, Mr. NUSSLE, Mr. VENTO, Mr. WELDON, and Mr. JOHNSTON of Florida.

H.J. Res. 264: Mr. MCEWEN, Mr. LIPINSKI, Mr. LOWERY of California, Mr. LEWIS of Georgia, and Mr. PANETTA.

H.J. Res. 284: Mr. MANTON, Mr. HARRIS, Mr. GUARINI, Mr. LEHMAN of California, Mr. SCHEUER, Mr. RINALDO, Mr. MAVROULES, Mr. RICHARDSON, Mr. YATRON, Mr. SLATTERY, Mr. ERDREICH, Mr. SERRANO, and Mr. OWENS of Utah.

H.J. Res. 293: Mr. DORGAN of North Dakota, Mr. PETERSON of Minnesota, Mr. CLEMENT, Mr. HENRY, Mr. THOMAS of Georgia, Mr. SKEEN, Mr. BROWDER, Mr. BURTON of Indiana, Mr. WALSH, Mr. DELLUMS, Mr. DE LUGO, Mr. HARRIS, Mr. DICKS, Mr. VOLKMER, Mr. DYMALLY, Mr. EWING, and Ms. PELOSI.

H.J. Res. 299: Mr. TRAFICANT, Mr. WOLPE, Mr. ANNUNZIO, Mr. OBERSTAR, Mr. MCNULTY, Mr. APPLEGATE, Mr. SERRANO, Mr. CLEMENT, Mr. GAYDOS, Mr. MAZZOLI, Mr. HORTON, Mr. GUARINI, Mr. MRAZEK, Mr. PAYNE of New Jersey, Mr. ROE, Mr. DINGELL, Mr. BUSTAMANTE, Mr. ASPIN, Mr. ACKERMAN, Mrs. LLOYD, Mr. WISE, Mr. YATRON, Mr. TRAXLER, Mr. KOLTER, Mr. WILSON, Mr. BENNETT, Mr. TAUZIN, Ms. NORTON, and Mr. BREWSTER.

PETITIONS, ETC.

Under clause 1 of the XXII,

103. The SPEAKER presented a petition of the Seattle Arts Commission, Seattle, WA, relative to amendments to the Immigration Act of 1990; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

WHO SAYS BLACKS MUST
SUPPORT THOMAS?

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. STOKES. Mr. Speaker, President Bush's decision to nominate Judge Clarence Thomas to the U.S. Supreme Court has provoked a great deal of debate here in the Congress and throughout the Nation. As his confirmation hearings approach, many will examine Thomas' record on affirmative action, civil rights, abortion, and other controversial issues which are certain to come before the Supreme Court.

One question being asked by the White House is why black leaders would be opposed to the nomination of an African-American to the Nation's highest Court. Notable black organizations, including the Congressional Black Caucus and the National Association for the Advancement of Colored People [NAACP], have criticized the nomination of Clarence Thomas.

In an article which appeared in the July 15, 1991 edition of the Cleveland Plain Dealer, Rev. Marvin A. McMickle, an outstanding minister and president of the Cleveland Branch of the NAACP, addressed this issue. This thoughtful and incisive article is entitled, "Who Says Blacks Must Support Thomas?"

Mr. Speaker, I am pleased to bring this article to the attention of my colleagues and urge that they take a moment to consider Reverend McMickle's arguments.

WHO SAYS BLACKS MUST SUPPORT THOMAS

(By Rev. Marvin A. McMickle)

It is, perhaps, time for the local NAACP branch president to say why so many black Americans view the Supreme Court nomination of Clarence Thomas with alarm and concern.

There seems to be some assumption that because Thomas is black, all other blacks in America should welcome the prospect of his presence on the nation's highest court. The fact is, the NAACP national office and I personally view this nomination with cautious pessimism. What is known about the views of Clarence Thomas disturbs me, and what is not known disturbs me even more.

First, however, let me assert my grave concern over the public hysteria created by the criticism of Clarence Thomas by some black persons. Why is it to be assumed that, because he is black, all other blacks should hold their tongues and not express concern about his views and past history? When Robert Bork was nominated, widespread disagreement about his presence on the court was raised by other white Americans, and nobody seemed shocked. Whites are allowed to disagree on matters of policy or ideas, but seem shocked when blacks exercise the same option.

It is one of the lingering effects of racism upon American society that, of course, all

black people agree on everything, and one of them would have no need to ever disagree with another. Freedom will not fully come for black Americans until we are as free to hold divergent views among ourselves and to speak freely about those divergent views as is the case for whites, whose views are as divergent as Edward Kennedy and William Sloane Coffin on one side and Jesse Helms and Pat Robertson on the other.

In fact, black America has never been as monolithic as some might think. The modern debate about affirmative action vs. black self-help is reminiscent of the debate 100 years ago between W.E.B. DuBois and Booker T. Washington over the best approach to black liberation or between Martin Luther King and Malcolm X in the 1960s on the same issue.

That black people can be found who disagree on affirmative action vs. self-help is surprising only to those, black and white, who think that blacks are incapable of thinking and speaking for themselves. What may make this particular disagreement unique is the fact that Clarence Thomas is not only disagreeing with some black leaders in America, but that he is so readily embraced by some in white America whose contempt for blacks is well known (Jesse Helms and Strom Thurmond).

Further troubling to many, is that he was elevated to this judicial pinnacle by two presidents whose administrations have presided over a steady reversal of civil-rights progress (Reagan and Bush).

As to the nomination of Clarence Thomas itself, let me list the areas of concern. Already widely discussed is his performance as head of the Equal Employment Opportunity Commission. That is readily the only public record available on this man. What his performance there promises to blacks, women, the elderly and others is no cause for enthusiasm. He savaged that agency. After only 16 months as an appeals court judge, there is little to suggest his views or his ability as a judge.

The real irony of this nomination is what it says about the shape and state of the U.S. Supreme Court for the next generation. George Bush has named to the court two men of incredibly low profile and even lower production of legal opinions and scholarly production. We know their ideology but we know nothing about their legal or judicial views.

Given the way in which all nominees since Bork (Kennedy-Scalia-Scouter) have been coached for their confirmation hearings, we will not likely learn any more about Thomas until he is seated on the court and begins to produce opinions. Given the issues that will confront the court in the years to come. (capital punishment, free speech, limiting police power, Roe vs. Wade, environmental policies and equal protection under the law). I wonder if the nation is well served by Supreme Court justices, seven of whom share the same conservative political ideology, and about whom so little is known.

We demand to know a lot about a nominee for a four-year term as president. For a lifetime term on the Supreme Court we seem content to accept legal and judicial un-

knowns, and are then asked to believe that the nomination carries no political overtones.

Finally, the NAACP regrets George Bush's lack of honesty in answering whether Thomas was named because he is black. Bush said that Thomas was the best man for the job. That is untrue by every measurement. The truth is Thomas was George Bush's choice to replace Thurgood Marshall. No one imagines that Clarence Thomas is the premier black federal judge in the United States. He is not yet in the same league as A. Leon Higgenbotham of the 3rd Circuit Court in Pennsylvania or Harry Edwards, who sat with Thomas on the 2nd Circuit Court in Washington D.C. Both of these men are primed for the high court, but they are not conservative ideologues.

I am hard-pressed to believe that Thomas would have been "the best man for the job on the merits" if Bush had to replace Harry Blackman, who is also 82 years old and about to retire. This was a political decision by an increasingly conservative president. The shame is that Bush is unwilling to tell us that obvious truth.

INTRODUCTION OF LEGISLATION
TO CURTAIL ANTI-COMPETITIVE
PRICING PRACTICES BY MAJOR
REFINERS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. SYNAR. Mr. Speaker, I am today introducing legislation to amend the Petroleum Marketing Prices Act by adding a new title to that law designed to curtail certain anti-competitive pricing practices by refiners. I am very pleased to be joined in this important effort by Congressmen LENT (R-NY), BULLIEY (R-VA), and COOPER (D-TN), who share my concern over these pricing practices and the adverse impact they are having on wholesale distributors, C-store operators, chain retailers, service station dealers, and on the marketplace.

This legislation has two very simple purposes: To prevent refiner suppliers from charging their wholesale customers or dealers more for gasoline supplies than those refiners charging at the retail level at their own company-operated stations in the same marketing area—thus unfairly competing against their own customers; and to prohibit refiners from engaging in resale price maintenance.

This legislation is critically necessary to restrain the practice, commonly referred to as "price inversions", whereby some refiners have been charging their wholesale customers more for gasoline supplies at the rack than those same refiners are charging at the pump at their own retail outlets in the same marketing area. Now, Mr. Speaker, it doesn't take a rocket scientist to figure out that when this

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

happens, there is no way in the world that that wholesale customer can effectively compete against a refiner supplier. Far from competing, he is at a severe price disadvantage.

This bill is also necessary to ensure that refiners are constrained from directly or indirectly pressuring their independent service station dealers from setting specific retail prices, thereby limiting the flexibility which dealers have to price competitively.

In a moment, I want to go into the provisions of the bill in some detail. But at the outset, let me say that no matter how this issue is approached, no matter how complicated critics try to make the argument and the issue appear, it still boils down to two very simple propositions: First, that a supplier's wholesale prices should not be higher than his retail prices—specially where a wholesaler must directly compete against his supplier; and, second, refiner suppliers should not be attempting to dictate retail prices to their independent service station dealers. Period. It's just that simple, Mr. Speaker.

This is not to say that the issue is not challenging. Rather, I merely suggest that there are those who will seek to make it appear far more complicated than necessary.

I am the first to admit that the Petroleum Marketing Practices Act is a difficult law and that petroleum markets, and the ways in which they relate to each other, can sometimes be difficult to understand. They have changed enormously over the last decade and continue to evolve, particularly with the advent of futures markets in crude and petroleum products and increasing reliance on spot markets.

But they are not quite so complicated that Congress is unable to appreciate how they work or powerless to identify and address problems occurring in the marketplace.

These price inversions began to occur last fall, after the Iraqi invasion of Kuwait, a period of severe volatility in petroleum prices. While I was greatly concerned about this pricing practice at the time, like many others I assumed that a return to market stability would undo whatever peculiar pricing events had given rise to the inversions. Indeed, the American Petroleum Institute's study of those inversions which occurred during the August-September 1990 period suggested the inversions were merely anomaly induced by volatility in the market. Assuming one could accept API's explanation and agreed with its rationale, one would have expected the inversions to stop when the market returned to a normal state.

But that is not the case. Unfortunately, they occurred again during January and for extended periods of time later this year—a period during which the market was calm and prices were relatively stable. So, any suggestion that this was simply a volatility-induced anomaly, just doesn't hold water.

I have heard many explanations about how markets work, and about how they operate both independently and collectively. Yet, with all due respect, these explanations present no rational or compelling argument for why the petroleum market should not function so far outside the norm in terms of pricing product at various levels of distribution. Other markets don't operate that way and I have yet to hear a convincing argument as to why this one should.

As a result of these price inversions, some wholesale distributors have been put in the unenviable position of trying to market gasoline in competition with their suppliers who are able to charge significantly less at the pump—in the same marketing area. The resulting financial squeeze on these wholesale distributors, who are facing many other financial burdens, can be substantial. Certainly this bill will not relieve those other burdens, such as the costs for installation of new underground tanks and liability insurance, or the normal pressures of an intensely competitive marketplace. But the bill can—and hopefully will—relieve the burden of unfair competition by their own suppliers. This is its purpose.

Mr. Speaker, I want to emphasize that this legislation is crafted in a way to result in the least possible intrusion into the marketplace. For me, that is a fundamental principle which should guide any effort to find a fair and viable solution to this problem. No new government bureaucracy would be created.

And importantly, the legislation in no way dictates retail gasoline prices at the pump. Refiners are, and will continue to be, free to set retail prices where they choose. I would add, parenthetically, that the other provisions of the bill attempt to ensure that refiners' independent dealers are also free to set retail prices wherever they want. What the bill does require, however, is that refiners choose to compete with their own wholesale customers, that they not charge those wholesale customers more than the price they are charging at their own direct-operated retail outlets in the same geographic market area, adjusted for the refiner's cost of doing business.

In adjusting for the refiner's cost of doing business, the legislation provides for a very simple and very conservative rebuttable presumption: That dealer tank wagon prices should be about 6 percent less than retail prices, and that wholesale prices at the rack should, in turn, be about 4 percent less than dealer tank wagon prices.

As a very simplistic example, let's say that in one marketing area, a refiner chooses to set the retail price for regular unleaded gasoline at one of his own company-operated outlets at \$1/gallon. I would reemphasize that the refiner is free to set his retail prices wherever he wants. If that refiner directly competes with his lessee dealers or with one or more of his wholesale customers in that particular marketing area, then he can charge his dealer lessee no more than \$0.94/gallon for that same grade of gasoline and could charge his wholesale distributor no more than \$0.90/gallon.

Again, these rebuttable presumptions were not just pulled out of thin air. They represent very conservative estimates of the refiner's cost of doing business at company-operated outlets. If a wholesale distributor or lessee dealer is charged more than those benchmark percentages of that suppliers' retail prices, then a prima facie case exists that the refiner has violated the provisions of the act. The refiner, however, can overcome the prima facie case by showing that his costs of doing business are less than the presumption. By using these conservative estimates, we anticipate only the most obvious and egregious cases would be the subject of any action.

I realize that some will employ the battle cry of price controls because of these presumptions, in an effort to stave off congressional scrutiny of this pricing practice. Let me say, Mr. Speaker, that I have lived through price controls, I know price controls, and this does not represent price controls.

Indeed, as I noted earlier, this proposal is specifically designed to be the least intrusive approach to correcting the problem. It is designed to avoid unduly interfering in the ability of refiner suppliers to set retail prices wherever they choose at their own outlets. And in an effort to avoid frivolous cases, we have chosen to employ what are in truth extremely conservative presumptions.

Mr. Speaker, I sincerely wish this sort of legislative fix was not necessary. Numerous major oil companies have told us they recognize the problem caused by these price inversions, and are sympathetic to the financial squeeze they impose on their wholesale customers. Indeed, virtually every major oil company we have talked to has told us that to try and address the problem they have a policy to prevent such inversions. However, it is important to note that they also agree that these inversions are likely to continue to occur despite their policies. Some have established rebate programs of one form or another which are supposed to compensate wholesale distributors for their losses when such inversions occur.

While I commend the industry for recognizing the seriousness, and the unfairness, of these inversions and appreciate their effort to respond to the situation, I must respectfully, but vigorously, disagree that their policies and/or rebates have been an effective response.

In fact, it is obvious that their policies to prevent such inversions are not working. As I noted before, these price inversions have now occurred several times since the beginning of this year, including an extended period during March and April when markets were relatively calm, and refiners have told us such inversions are likely to occur again and again despite their policies.

Further, while I am also pleased that some companies have established these rebate programs to try and compensate for price inversions, it has been impossible to learn the details of these programs and, in any event, even the companies admit that the rebates cannot make their wholesale distributors whole again following an inversion.

In light of all this, it seems only logical and reasonable to me that if we know the practice to be a serious problem, and recognize that the companies' rebates are not effective in remedying it, then we should look for a viable means of preventing the problem in the first place. That is what this legislation is all about.

Its second goal is to ensure that independent service station dealers have the flexibility to set retail prices at their stations, without undue pressure by refiners to fix prices at a level designed to meet other marketing objectives of the refiner.

Independent service station dealers are not employees of the oil companies, and they should have the opportunity to meet competition in their local areas through prices they deem appropriate. This is not always the case. Refiners, for example, sometimes influence

these retail prices through the use of rebates or discounts that are tied to the dealer selling so much gasoline in a given month. Dealers can be forced to participate in these programs in order to remain competitive, even though they may not always be in the dealer's best interest.

The legislation addresses this problem by prohibiting refiners from entering into schemes or agreements to set, change or maintain maximum retail prices of motor fuels operated by independent dealers, in short, a traditional concept prohibiting resale price maintenance.

Now, the major refiners have made a number of assertions about the concepts incorporated into this legislation, assertions which are either erroneous on their face, or highly exaggerated. I would like to address some of them up front.

First, some companies have asserted that this legislation will result in higher prices for consumers. Of course, that is not the case. We have gone out of our way to assure that nothing affects the rights of refiners to set retail prices at their company-operated outlets wherever they want, and they will continue to set their retail prices as competition dictates. Like my colleagues, I have always supported efforts to promote a healthy and vigorously competitive petroleum marketplace and nothing in this bill undermines that principle.

Some suggest the legislation will allow inefficient marketers to stay in business. Believe me, this bill will not do anything to protect inefficient marketers from the forces of the marketplace. It will simply protect wholesaler distributors and dealer lessees from certain fundamentally unfair forms of competition by their own suppliers. I think reasonable people recognize there is a big difference between intense, but normal, competitive pressures and instances where your own supplier is engaging in a pricing practice that threatens the economic viability of your business.

As I noted earlier, some refiners have contended this proposal represents price control legislation. Nothing could be further from the truth. None of us is quite so young that we don't remember Federal price controls; they were pervasive upstream and down—from the well-head to the gas pump. They were intended to strictly regulate the ultimate price paid by the consumer at the pump. As I have indicated repeatedly today, we have gone out of our way to craft a proposal whereby retail prices are not dictated by the bill, and to provide the least intrusive method possible for remedying cases where refiners price in a manner which virtually guarantees their own wholesale customers can't effectively compete against them.

This criticism goes hand-in-hand with all the old, baseless, standbys about reduced competitiveness, decline in customer convenience, guaranteed profits, et cetera. In truth, these arguments have no merit. They are simply designed to scare Congress into doing nothing about a practice which the refiners themselves concede is a serious problem for distributors and is one likely to continue to occur.

Looking at the resale price maintenance provisions in more detail, some major oil companies have asserted that the legislation might be used to prevent refiners from providing dealers with certain incentives, such as vol-

umes discounts. In fact, the legislation's restrictions on resale price maintenance—much like other antiprice maintenance proposals acted on by Congress—might prevent such discounts only in cases where the discounts or other incentives are designed solely to induce certain retail pricing practices, in effect a backdoor means of setting retail prices. Otherwise, the legislation should have no effect on discounting or incentive programs otherwise permitted by law. That is all it is intended to encompass with regard to volume discounting or other incentive programs.

With regard to the prohibition on resale price maintenance in general, I must say I would be surprised if any refiners would argue they should be permitted to dictate all retail prices to their independent dealers. Since other criticisms against the bill are based largely on arguments that no one should interfere in the workings of a competitive marketplace, it would be ironic indeed to now hear arguments that only refiners themselves should be permitted to do so.

Mr. Speaker, I am well aware that, despite our best efforts, this legislation may not represent the perfect solution to these problems—problems which even the refining community recognizes as serious. My offer to those who would criticize this approach, however, is to come up with a better proposal that provides an equally viable remedy in an even less intrusive way. I am open to suggestions for improving or fine-tuning the bill, as I'm sure my colleagues are, and I look forward to working with refiners, marketers, and dealers in an effort to craft and enact a workable solution to these problems.

Will this legislation address every problem facing marketers and dealers? Of course not. Marketers and dealers face extreme pressures every day in an intensely competitive business. They are in the process of meeting significant new burdens in the environmental area. The costs of liability insurance are in some cases prohibitive for smaller marketers and dealers and have forced many from the marketplace altogether.

But the fact that we cannot address all these problems should not prevent us from dealing with a few obvious ones where the issues are ones of basic fairness. That is what we are trying to do here.

There are other PMPA issues still around. Issues raised last year in legislation supported by the service station dealers, for instance, are still the subject of negotiations between the dealers, marketers, and major refiners. I do not believe those issues belong on this bill. Certainly, down the road, it might be appropriate to consider combining the marketing issues currently on the table if a consensus could be reached on all of them. In the meantime, however, I believe it is more appropriate to have the separate issues move along separate tracks.

Finally, Mr. Speaker, some more recent proposals such as retail divorcement or divestiture, have been suggested. That such radical measures are even the subject of serious discussion may be an indication of the high level of concern and frustration that marketers and dealers feel over certain supplier practices; nevertheless, I strongly oppose both and would vigorously resist any effort to attach

such proposals to this or other PMPA legislation.

I look forward to working with my cosponsors and other Members, as we give some critically needed scrutiny to these unfair and anticompetitive pricing practices. For those concerned about maintaining a healthy and robust petroleum product marketplace, I hope you will join us in cosponsoring our legislation to provide a remedy for those so seriously affected by these practices.

FIVE REASONS TO OPPOSE THE DAIRY BILL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GRADISON. Mr. Speaker, later this week, the House is scheduled to consider H.R. 2837 which would substantially change this Nation's dairy programs. This bill is bad for several reasons, and should be opposed.

Supporters say H.R. 2837 is needed to combat the low market prices dairy producers have been receiving. Over the past year producer prices for dairy products have dropped dramatically. When viewed in a long-run context, however, the drop appears less serious. The table below, which shows various dairy prices leads to three observations. First, prior to the recent drop, milk prices were at historic highs. Much of the drop can be explained as a return to the historic average, brought about by increased production. Second, although prices are slightly lower than their long-run average, the difference is not dramatic, especially when compared with the magnitude of the prior increases. Last, milk prices have been increasing in recent months, justifying hope that the worst is over for producers and that prices will soon return to normal levels.

In spite of this, H.R. 2837 would effectively tax America's consumers by forcing them to pay higher prices for all dairy products. The committee recognizes that such a move would only exacerbate the industry's perpetual problem of overproduction and so seeks to institutionalize a system of production quotas. The Department of Agriculture has already indicated that it will recommend a veto of this legislation. OMB is likely to take a similar stance. They rightly object to several of the bill's provisions.

First, H.R. 2837 turns over important Government functions to a new national dairy inventory management board consisting of milk producers. Although the board must consult with the Secretary of Agriculture, many of the normal Government decisions surrounding the operation of the Federal dairy program would be transferred to this private board representing dairy producers. We should not allow private boards to direct Government policy.

Second, the bill significantly raises the Federal support price for milk. The support price would rise from its current level of \$10.10 per hundredweight to \$12.60 in 1992 and 1993, \$12.10 in 1994 and \$11.60 in 1995. This in turn will raise the retail price of milk by approximately 12 cents per gallon. This is one Member who will not vote to raise the price of

milk for all his constituents for the benefit of a nationally small number of dairy farmers.

Third, the bill changes the composition of milk to require a greater percentage of milk solids. This would alter the taste of milk. The bill makes this change in order to get rid of some of the extra production resulting from the higher support prices. I believe the taste of milk should be left to consumers. Recently consumers have been voting in the opposite direction, increasing their purchases of lighter milk products.

Also, enactment of the bill will lead to the implementation of production quotas. Some have argued that we should guarantee producers higher prices by limiting the ability of individual farmers to produce as much as they want. Adopting this philosophy would seriously weaken the long-term competitiveness of American agriculture by reigning in its productivity and innovation. In order to guarantee existing farmers higher incomes, production controls would raise the price of food for consumers, weaken our competitiveness, and make it more difficult for the next generation of farmers to enter the industry. The 1985 and 1990 farm bills decisively rejected this philosophy.

Finally, the higher milk prices brought about by this bill will negatively impact Federal programs which supplement the purchasing power of those who might otherwise suffer from poor nutrition. The most important of these programs are the Women, Infants, and Children Program (WIC), the Food Stamp Program, and the child nutrition programs.

H.R. 2837 attempts to deal with this problem by increasing the assessments on dairy producers to pay for any negative impact. The bill would allow the private board to tax dairy farmers so that the benefits in each of these programs would not be diminished by the higher dairy prices. Yet, it is not clear that this plan will fully compensate the programs for their increased costs, especially in the first year when assessments have not yet occurred.

Indeed, the attempt to ameliorate the bill's negative impact on consumer prices raises an even stronger objection in the case of WIC. Under the terms of last fall's budget agreement, higher taxes in mandatory programs cannot be used to fund increases in discretionary accounts such as WIC. The bill's sponsors attempt to get around this objection by creating a mandatory program within WIC. This sort of budget gimmickery violates the spirit if not the letter of the budget agreement.

In sum, H.R. 2837 attempts to create a wide variety of budget and policy problems in order to solve an emergency which will likely no longer exist by the time the legislation is enacted. Private markets do not always perform smoothly, but on the whole they are much more efficient and fair to both producers and consumers than Government schemes to fix prices.

SELECTED MILK PRICES, 1986-90

	M-W manufacturing grade	New England blend	Upper Mid-west blend	Texas blend	Class I	U.S. retail
1986						
January	11.12	12.98	11.35	12.79	13.35	19.21
February	11.04	12.88	11.26	12.70	13.35	19.14

SELECTED MILK PRICES, 1986-90—Continued

	M-W manufacturing grade	New England blend	Upper Mid-west blend	Texas blend	Class I	U.S. retail
1987						
January	11.07	13.88	11.97	14.19	14.47	19.41
February	11.27	13.58	11.59	13.95	14.44	19.79
March	11.03	13.08	11.34	13.45	14.26	19.29
April	11.00	12.71	11.26	13.22	13.83	19.34
May	11.00	12.42	11.21	13.02	13.60	19.55
June	11.07	12.46	11.27	13.12	13.56	19.48
July	11.17	13.07	11.37	13.17	13.56	19.45
August	11.27	13.51	11.48	13.36	13.61	19.52
September	11.42	13.82	11.64	13.56	13.70	19.78
October	11.35	13.86	11.60	13.61	13.81	19.81
November	11.34	13.69	11.59	13.50	13.97	19.81
December	11.12	13.31	11.38	13.32	13.90	19.93
1988						
January	10.91	13.13	11.19	13.26	13.91	19.95
February	10.60	12.86	10.89	12.97	13.69	20.10
March	10.43	12.43	10.71	12.59	13.48	19.95
April	10.33	12.08	10.58	12.29	13.16	19.98
May	10.34	11.81	10.56	12.17	12.99	19.86
June	10.34	11.75	10.55	12.16	12.89	19.78
July	10.52	12.38	10.72	12.33	12.89	19.78
August	10.98	13.09	11.13	12.67	12.88	19.69
September	11.48	13.51	11.58	13.06	13.06	20.00
October	11.88	13.93	11.98	13.41	13.53	20.34
November	12.23	14.20	12.35	13.85	14.03	20.59
December	12.27	14.13	12.44	13.91	14.43	20.84
1989						
January	11.90	14.09	12.19	14.09	14.79	21.14
February	11.26	13.80	11.65	14.06	14.83	21.45
March	10.98	13.25	11.34	13.26	14.46	21.57
April	11.09	12.73	11.34	12.79	13.82	21.53
May	11.12	12.55	11.33	12.77	13.54	21.48
June	11.33	12.74	11.52	13.00	13.65	21.48
July	11.76	13.41	11.90	13.35	13.67	21.43
August	12.37	14.25	12.46	13.83	13.87	21.55
September	13.10	14.96	13.06	14.41	14.30	21.91
October	13.87	15.57	13.74	15.03	14.91	22.31
November	14.69	16.19	14.46	15.66	15.55	22.93
December	14.93	16.44	14.98	16.14	16.43	23.69
1990						
January	13.94	16.44	14.40	16.43	17.26	24.48
February	12.22	15.74	13.04	15.73	17.50	25.02
March	12.02	14.92	12.62	14.55	16.51	24.62
April	12.32	13.85	12.55	13.83	14.79	24.55
May	12.78	13.86	12.91	14.13	14.59	24.29
June	13.28	14.25	13.36	14.48	14.89	24.12
July	13.43	15.01	13.57	14.87	15.35	24.50
August	13.09	15.62	13.48	15.26	15.83	24.79
September	12.50	15.52	13.10	15.14	15.96	24.72
October	10.48	14.61	11.54	14.09	15.62	23.02
November	10.25	13.94	11.15	13.65	15.08	24.57
December	10.19	12.28	10.48	11.83	13.01	23.95
1991						
January	10.16	12.19	10.47	12.09	12.79	23.78
February	10.04	12.03	10.38	12.11	12.73	23.60
March	10.02	11.95	10.31	11.59	12.70	23.69
April	10.04	11.94	10.30	11.62	12.59	23.53
May	10.23	11.84	10.44	11.78	12.57	23.43
June	10.59	11.84	10.68	11.94	12.59	

"MIAMI'S FOR ME" VOLUNTEER SERVICE PRESENTS NEW TELEVISION PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to your attention a new project sponsored by "Miami's for Me" volunteer service. This volunteer service has been known for its achievements for over a decade and is now introducing a new information service called "Volunteer Miami."

"Miami's for Me" is a nonprofit organization founded in 1981. The primary goal of the or-

ganization is to provide individuals with information on various volunteer services. With this information, individuals are able to choose the volunteer service best suited to their interests. The organization hopes this will promote civic pride in Miami and show how everyone can make a difference in our society.

Recently, "Miami's for Me" sponsored a television program which will make volunteer service information available to all. This new program, "Volunteer Miami," started airing on July 1 and will continue as a 12-part series examining the inner workings of some volunteer services. Some shows will feature interviews with the founders of their services, while others will show the services' achievements. The first show of the series introduces the idea of "voluntarism" to the audience, and each show concludes with information on how to join the services.

There are many individuals responsible for "Volunteer Miami" without whom the project would not have been possible. These people should be admired for their sacrifices and respected for their dedication to the community. Harriet Carter, founder of Volunteer Miami and cohost; and David Tilden, cohost, in particular should be noted for their tremendous efforts to the project. Citibank, D'zyne Design, United Way, and Channels 4, 10, and 17 should also be recognized for their work on the project.

I would like to emphasize the beneficial impact Harriet Carter's "Volunteer Miami" will have on the community. By implementing this new program, "Miami's for Me" has expanded its outreach into an extremely viable medium. May they have continued success in the future.

AUDUBON SOCIETY PROVES OIL DEVELOPMENT, WILDLIFE MIX

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. YOUNG of Alaska. Mr. Speaker, as Congress considers the matter of whether or not to allow oil and gas development in a small portion of the Arctic National Wildlife Refuge in Alaska, it is important that Members are aware that at least one environmental group with land holdings allows such development. In the following article which appeared in the Washington Times details, the Audubon Society has for years balanced oil and gas development on lands held for their wildlife values. I believe it proves that such development can take place safely, as do the existing operations at Prudhoe Bay in Alaska, immediately west of the Arctic Refuge. Of course, the stakes are much higher in the refuge, where scientists have estimated geological structures could contain more than Prudhoe Bay itself. This would make the refuge the largest oil find ever in North America. I submit the article for the RECORD, and ask that it be inserted in its entirety.

[From the Washington Times, July 18, 1991]

AUDUBON THE KEY TO ANWR OIL?

(By Jonathan Alder)

Down in the heart of the Louisiana bayou lies the Rainey Wildlife Sanctuary. It is the

26,800-acre home to a grand assortment of animal and plant life and serves as the seasonal nesting and breeding grounds for many migratory birds. It is owned and maintained by the National Audubon Society and is closed to the general public, thereby providing an exceptionally pristine and secure wildlife habitat. The Rainey sanctuary is a model of environmental management.

However, while birdwatchers, campers and other visitors are unable to explore Rainey's ecological diversity, profit-seekers have been able to take advantage of what Rainey has to offer. Oil companies have leased the rights to the oil deposits in the preserve for more than 25 years, and today there are still four active wells within the refuge.

Many associate oil drilling with the environmental degradation and the disruption of animal habitats. Not only has Audubon found ways to allow access to oil deposits in Rainey without compromising environmental concerns, but National Audubon has also negotiated contracts allowing exploratory drilling in the Corkscrew Swamp Sanctuary, near Naples, Fla., and the Michigan Audubon Society (MAS) allows oil operations in its Baker Wildlife Sanctuary, one of the nation's first sandhill crane sanctuaries.

MAS' experience with drilling in the Baker sanctuary is particularly instructive. The Baker sanctuary includes what is widely considered to be an important nesting and breeding ground for many species, including the osprey. MAS has termed it "the most important and significant refuge" it manages. Nevertheless, when MAS conducted a study of the effects of oil operations in the sanctuary, it found that oil drilling and extraction was not having a harmful impact on the local flora and fauna. Furthermore, the report clearly stated that the birds breeding in the sanctuary in habitats adjacent to the well site were not noticeably disturbed by the presence of humans or the noise of the well drilling." This allayed many fears that human and machine activity would cause birds and other animals to forego seasonal mating and thereby stunt wildlife population growth in the sanctuary.

Given Audubon's success in balancing oil interests and ecological concern, it is surprising that the society, and most other environmental groups, oppose allowing the federal government to pursue a similar course in the Arctic National Wildlife Refuge. ANWR is a potential windfall for federal coffers, and many believe it holds more oil than nearby Prudhoe Bay, North America's largest oil field.

Of course each region is unique, and different considerations apply to each potential drilling site. The environment of exploration can occur in the winter when ice and frozen tundra protect the delicate permafrost layer, and most wildlife is far south of the coastal region where any drilling would take place. Additionally, drilling activity can also be coordinated with seasonal migration and mating so as to provide minimal disruption, and pipelines and service roads can be designed to not impede the Caribou herds' paths of migration. Such methods have been good enough for Audubon; they should be good enough for the federal government.

Audubon subsidizes its conservation activities through the careful development of natural resources. Why does not the Audubon Society encourage the American taxpayer to do the same? In an age when America is overly dependent upon foreign sources of oil, and the federal government is under the burden of massive debt, there is a need to take

advantage of what Alaska's North Slope has to offer. Organizations such as Audubon should seek innovative approaches to hydrocarbon development that are compatible with environmental concerns. Audubon should be part of the solution rather than part of the problem.

A TRIBUTE TO NANCY LETOURNEAU

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. ROBERTS. Mr. Speaker, today I would like to recognize Nancy Letourneau of Aurora, KS. Miss Letourneau is the first district winner in the annual Veterans of Foreign Wars Voice of Democracy script writing contest.

Her script is a fine example of the dedication and pride she feels toward democracy. As a tribute to her hard work, I ask for her script "Democracy—The Vanguard of Freedom" to be inserted into the CONGRESSIONAL RECORD.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Nancy Letourneau)

What is something that millions of people have sacrificed their lives to taste and millions more die to protect? No—I am not talking about that morning cup of coffee that you cannot begin the day without or that afternoon chocolate bar that just hits the spot. It is something both you and I participate in, depend upon, and expect. Any ideas? I am talking about democracy—the vanguard of freedom. Let's examine why this commodity is so precious that people are willing to die to possess it.

What is democracy? Democracy is the liberator of people held behind Berlinian stone walls, something our American forefathers graciously died to protect, something students in Beijing courageously shed blood in hopes of, as well as something we participated in this November as we elected our congressional representatives.

Have you ever gone window shopping? Remember admiring that item on the other side of the glass? This is just like the people all around the world who have only seen democracy through the cracks of the Berlin Wall. These people's faces wear an exhausted expression which have never smiled with freedom. They have never held their head high with freedom's pride.

Freedom is not some bold term, it is the pleasure to worship what you choose, the privilege to participate in government, the opportunity to choose a job, the selections found on grocery shelves, and the liberty to go where you want and the right to speak one's mind.

Clara Smith Reber explains freedom this way in here poem appropriately entitled "Freedom".

Freedom is a breath of air, pine scented, or salty like the sea;

Freedom is a field, new-plowed furrows of democracy!

Freedom is a forest, trees tall and straight as men!

Freedom is a printing press, the power of the pen!

Freedom is a country church, a cathedral's stately spire;

Freedom is a spirit that can set the soul on fire!

Freedom is a man's birthright, a sacred rump;

The pulse beat of humanity . . . the throb of a nation's heart!

It is because of this—freedom—that people seek the treasury of democracy.

Our ancestors fought the American Revolution to free themselves and their grandchildren from the tyrannical yoke of England. To taste democracy they gave their lives. Through their victory, we drink the freedom of democracy. Also as the end of the Cold War shapes a new global political arena, and enemies become allies, democracy is changing the world. For example, the historical 1989 unveiling of the Iron Curtain and the tumbling of the Berlin Wall exposed people to freedom that before they could only dream about. Also on October 3, 1990 as Germany reunified, democracy offered those who had only eaten the spoiled fruits of suppression, the ripe fruits of freedom through democratization. Finally, students in Beijing gathered in Tiananmen Square to protest for something they saw in the West, but never experienced due to communist domination. Sadly, their blood fell like rain because old hardliners refused to quench their thirst for democracy. Their cries for freedom were silenced with bullets.

All of these examples illustrate a desire in people to be free. Democracy provides the vehicles to drive freedom to the people. Just like there will always be wars, there will always be people dying for the democratic way of life.

So the next time you hear someone say "I'd just die for a piece of chocolate," think of all those people who have died for a taste of something far more precious—democracy, the vehicle to freedom.

A SPECIAL SALUTE TO CLEVELAND INVENTOR GARRETT A. MORGAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. STOKES. Mr. Speaker, on Wednesday, July 24, 1991, the city of Cleveland will pause to pay tribute to a great African-American inventor, manufacturer, businessman, and humanitarian, Garrett A. Morgan. On that date, the Division Avenue water facility will be renamed in honor of this famous Clevelander. The July 24 tribute marks the 75th anniversary of the rescue effort lead by Garrett Morgan to save workers trapped beneath Lake Erie in Cleveland's worst water works disaster in history. Garrett Morgan will be remembered for his bravery, heroism, and compassion for his fellow man.

I want to take this opportunity to commend the Cleveland City Council and, in particular, Councilman Craig E. Willis, for his commitment and longstanding efforts to honor this great American. At this time, I would like to share with my colleagues some biographical information regarding this individual.

Mr. Speaker, Garrett A. Morgan is hailed in American history for his many inventions. In fact, during his lifetime Morgan invented so many things that he was referred to as "the Black Thomas Edison."

Garrett Morgan was born in Paris, KY, in 1877 and moved to Cleveland in 1895, where he worked as a machinist in a textile factory.

In one of his early business endeavors, Morgan and his wife ran a shirtwaist manufacturing business. Morgan also invented many haircare products for blacks, including straightening and curling combs.

Morgan's first successful invention was a belt fastener which enabled sewing machines to run properly. In 1912, Garrett Morgan developed and patented the gas mask or safety helmet, which received national recognition. He won a gold medal in 1915 and again in 1916 for this invention by the International Exposition of Safety and Sanitation. The Cleveland Fire Department bought five of the masks and the fire departments of Akron and Los Angeles added the device to their equipment. The National Safety Device Co. was formed to manufacture the mask.

In 1923, Garrett Morgan invented the traffic signal. The first traffic signal which Morgan patented was installed in Willoughby, OH, and shortly thereafter at East Ninth Street and Euclid Avenue in downtown Cleveland. The patent for this device was later sold to General Electric for \$40,000.

Mr. Speaker, despite his success as an inventor, Garrett Morgan faced many obstacles. Unfortunately, in the early 1900's, it was difficult for many to accept the fact that African-Americans were capable of developing inventions. Thus, Morgan was forced to not only pretend that he was not the inventor of his products, but also that he was not black. He passed himself off as an Indian and had a white man to assume credit for his inventions.

In 1920 Garrett Morgan established the Cleveland Call, which served as a medium for him to advertise and promote his widely distributed line of hair treatment products. In 1923 Pioneer Publishing Co. took over the company and purchased a printing plant on Central Avenue in Cleveland. This marked the birth of Cleveland's first black weekly paper. In 1927 the paper merged with a competing black weekly, the Cleveland Post, and the Cleveland Call and Post was created. The newspaper continues to serve the African-American community.

Mr. Speaker, the gas mask which Garrett Morgan invented attracted national attention when it was used to save lives following a gas explosion in a water-intake tunnel beneath Lake Erie. It was during the evening hours of July 24, 1916, that an explosion shook Cleveland. It became apparent that workers were trapped in the tunnel below the surface. Ten rescue workers entered the tunnel in an attempt to save the lives of the workers, but failed to return.

Early the next morning, the Cleveland Police Department asked Garrett Morgan to use his gas mask to assist with the rescue attempt. While the mayor and other public officials looked on, Morgan, his brother, Frank, and two other men entered the tunnel and rescued six men. An official photograph from authentic records of the events showed Garrett Morgan, wearing the gas mask he invented, tenderly handing over to a policeman the unconscious body of one of the men rescued.

The Carnegie Hero Fund Commission conducted an investigation of the entire matter, and later gave awards to individuals involved in saving lives in the tunnel. Garrett Morgan was never included in any of the awards. Like-

wise, a city council resolution commending Morgan and awarding him \$2,000 was denied by the law department. Despite this, a group of leading citizens presented Garrett Morgan with a diamond-studded medal for his heroism and bravery. For his heroism Morgan also received a medal from the Cleveland Association of Colored Men and the International Association of Fire Chiefs. Morgan died in 1963 at the age of 86.

Mr. Speaker, Garrett Morgan was a great American and an outstanding inventor. The traffic signal he designed is a part of our everyday lives. Additionally, during the recent Persian Gulf war, our troops relied upon the gas mask which Garrett Morgan invented to save lives. I am proud that the city of Cleveland will honor Garrett Morgan and pay him proper recognition which is long overdue.

I am also pleased to note that pursuant to Ordinance No. 2511-90 which Councilman Willis sponsored, an area of Cleveland bounded by East 125th Street on the east, and East 115th and 114th Streets on the west, has been renamed Garrett Square, NE., in recognition of Morgan's outstanding accomplishments, his legacy to Cleveland, and contributions to American history. I commend the Cleveland City Council and I am honored to participate in this special tribute to Garrett Morgan.

THE FOREIGN INCOME TAX REFORM ACT OF 1991

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GRADISON. Mr. Speaker, today I am introducing the Foreign Income Tax Reform Act of 1991. The bill is designed to eliminate many inequities and impediments facing U.S. companies in their international operations caused by the current U.S. tax system.

Since 1986, our export sector has contributed significantly to GNP growth and net exports are increasing in their importance to the health of the American economy. Exports now account for almost 7 percent of GNP. This is almost double what it was during the 1960's. In many respects, the U.S. economy is becoming export oriented, and our growth export led.

An increasing number of American companies are finding that their most profitable markets and the markets with the highest growth potential are foreign. Many large companies now earn more overseas than they do domestically. In fact, the share of corporate profits coming from foreign operations has more than doubled since the 1960's. The foreign share of corporate profits has grown from 6.5 percent during the 1960's to 15.4 percent during the 1980's, and is likely to continue increasing throughout the 1990's.

At the same time many companies are expanding their overseas operations, they are faced with high effective tax rates, rates higher than those imposed by any other major industrialized nation. According to the National Chamber Foundation, the effective U.S. tax rate on foreign income is 35.2 percent, while

all other major industrialized countries impose effective tax rates in the 25- to 31-percent range, with the average being 29.2 percent. In fact, the U.S. effective rate is higher than the statutory corporate rate of 34 percent because of the double taxation in the current system.

Despite these dramatic shifts in the U.S. economy, the Tax Code penalizes companies with overseas earnings. Many provisions of the current tax system cause double taxation of foreign source income and unnecessarily burden U.S. companies. My bill proposes 22 changes to relieve double taxation and lessen the administrative burden on U.S. companies.

The U.S. foreign tax system has grown so complex that even major companies with large, knowledgeable tax staffs admit that they do not know if they are computing their tax liability correctly. They are not intentionally disregarding the law, but that they just don't know what the law is and how to properly comply. This situation cannot continue without there being an adverse impact on voluntary compliance.

My bill is the only comprehensive revision of the foreign income tax rules before this Congress which attempts to address the issues of double taxation and complexity. Several of its provisions have been previously introduced by Senators BAUCUS and DANFORTH and by Congressman THOMAS of California. Chairman ROSTENKOWSKI and Senator BENTSEN have also included similar provisions in their recent tax simplification bill.

I realize that my bill contains several provisions which lose substantial amounts of revenue and that without offsetting revenue they will not be enacted. I have asked the Joint Committee on Taxation to provide me with an estimate of the cost of the provisions in the bill. I expect that some provisions may not be very expensive and revenue can be found to enact them. Others may have to wait for a more favorable fiscal environment. Nonetheless, I feel that it is important to begin thinking about comprehensive changes to our foreign income tax laws.

A summary of the legislation follows:

THE FOREIGN INCOME TAX REFORM ACT OF 1991 SUMMARY

SECTION 1. AMENDMENT OF INTERNAL REVENUE CODE

Modifications are made to the Internal Revenue Code of 1986 to restore fairness and competitiveness to international tax policy.

SECTION 2. ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT

This section eliminates double taxation on foreign source income in computing the alternative minimum tax by eliminating the 90% cap on the use of the foreign tax credit.

SECTION 3. LIMITED APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS

Foreign persons not doing business in the U.S. are exempted from the Uniform Capitalization Rules of Section 263A.

SECTION 4. LOOK-THRU RULES FOR FOREIGN COR- PORATIONS NOT TO APPLY TO SEPARATE CAT- EGORIES WITH DE MINIMIS AMOUNTS

Foreign corporations with *de minimis* amounts of separate limitation income are exempted from the foreign tax credit basket rules of Section 904.

SECTION 5. EARNINGS AND PROFITS DEPRECIATION USED IN ASSET BASIS IN ALLOCATING EXPENSES

This provision permits taxpayers required to allocate or apportion any deductible expense on the basis of U.S. and foreign-sited assets to do so by using the same depreciation method and life for both domestic and foreign assets.

SECTION 6. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME

This provision provides fairness in the interest allocation formula based on worldwide assets by permitting interest incurred by foreign affiliates to be taken into account. In addition, interest expense that a U.S. subsidiary of a U.S. based multinational corporation, with solely U.S. operations, incurs on the basis of its own credit is allocated fully to U.S. source income.

SECTION 7. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY

Consistent with the current rule for claiming indirect foreign tax credits under Section 902, this change provides foreign sourcing of gains and losses from the sale of stock of Section 902 corporations.

SECTION 8. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Consistent with the "look-through" rules applicable to dividends received from foreign corporations, this modification provides similar treatment for allocating gain and losses from the sale of stock of a section 902 corporation to separate categories of income for foreign tax credit limitation purposes.

SECTION 9. TREATMENT OF SALE OF A PARTNERSHIP INTEREST UNDER SEPARATE INCOME LIMITATION

Consistent with pre-TAMRA proposed regulations, this section treats gain, as well as a loss, from the sale of partnership interest as a disposition of the assets of the partnership for purposes of determining separate categories of income for foreign tax credit limitation purposes.

SECTION 10. TREATMENT OF SALE OF A PARTNERSHIP INTEREST UNDER SOURCE RULES

Consistent with the modification made in Section 9 above, this change provides that the gain or loss from the sale of partnership interest will be treated as a disposition of the assets of the partnership for income sourcing purposes.

SECTION 11. TAX RULES APPLICABLE TO 80/20 COMPANIES

This provision conforms the source rule for 80/20 company dividends with the source rule for 80/20 interest payments; the source rule for 80/20 stock gains with the source rule for foreign corporations stock gains; and the Section 904 (d) characterization rule for 80/20 stock gains with the Section 904 (d) characterization rule for foreign corporation stock gains.

SECTION 12. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATION FOR NONCONTROLLED SECTION 902 CORPORATIONS

This section extends the current look-thru rules that apply to dividends received from controlled foreign corporations for foreign tax credit limitation purposes to dividends received from noncontrolled section 902 corporations. Dividends from noncontrolled section 902 corporations for which a taxpayer does not elect look-thru treatment are consolidated into one separate limitation basket.

SECTION 13. PASSIVE FOREIGN INVESTMENT COMPANY

Consistent with the 1986 Congressional intent, this change excludes from the PFIC provisions those companies subject to Subpart F provisions of the Code.

SECTION 14. DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY

This amendment changes the PFIC test from one based on gross income to one based on gross receipts.

SECTION 15. TREATMENT OF PRIOR YEAR DEFICITS UNDER SUBPART F

In order to bring simplicity and fairness to the Subpart F rules, this amendment allows all pre-1987 (post-1962) accumulated deficits of offset similar Subpart F income earned after 1986.

SECTION 16. RECAPTURE OF OVERALL DOMESTIC LOSS

In order to provide symmetry with the foreign tax credit limitation rules dealing with overall foreign losses, this modification requires subsequent domestic income to be recharacterized as foreign income in the case of overall domestic loss.

SECTION 17. ALLOCATION OF RESEARCH AND DEVELOPMENT EXPENDITURES

This amendment makes the temporary allocation provisions a permanent rule so the 64 percent of US R&D expenditures will be allocated to US source income, with the remainder apportioned on the basis of gross sales or gross income.

SECTION 18. EXCHANGE RATE FOR FOREIGN TAXES SAME AS FOR INCOME INCLUSION

This amendment provides generally for the translation of foreign income taxes into U.S. dollars using the translation rate applicable to the inclusion of the underlying income.

SECTION 19. ALLOCATION OF DEDUCTION FOR STATE AND LOCAL INCOME AND FRANCHISE TAXES

Under this provision, all deductions for State and Local income and franchise taxes are allocated to US source income for foreign tax credited purposes.

SECTION 20. FOREIGN TAX CREDIT CARRYOVER RULES AND REFUND PROCEDURES

This provision conforms the foreign tax credit carryback/carryforward and ordering rules to those for general business credits. It also expands the 6411(a) tentative refund procedures to include foreign tax credits.

SECTION 21. EXPANSION OF DEEMED PAID CREDIT BEYOND 3RD TIER COMPANIES

The prohibition on claiming deemed paid credits for subsidiaries beyond the third tier is repealed. Other ownership tests relating to the deemed paid credit are unchanged.

SECTION 22. POOLING EARNINGS AND PROFITS FOR THE DEEMED PAID CREDIT

This provision replaces the post-86 pool of earnings and profits with a three year moving average for purposes of calculating the deemed paid credit.

SECTION 23. EFFECTIVE DATE

Except as otherwise provided, the amendments made by this Act are applicable to taxable years beginning after December 31, 1991.

LATIN AMERICAN ASSOCIATION OF INSURANCE AGENCIES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to recognize the Latin American Association of Insurance Agencies [LAAIA]. This organization, based in my congressional district in Miami, FL, was formed in 1969 in order to address the concerns of Latin American insurance agencies and their customers. The association attempts to educate the Hispanic American public not only in south Florida but in all of Florida about insurance issues. The LAAIA also helps insurance companies by initiating communication with the legislature in Tallahassee on insurance issues. It tries to eliminate the concerns of insurance companies about risks in insuring arriving immigrants.

In addition to addressing the concerns of insurance agencies, the LAAIA also greatly contributes to helping the Miami community. They conduct charity fund raisers for the underprivileged and abused children of the Children's Home Society, raise money for United Cerebral Palsy and Clinica Para Ninos con Cancer, a division of Children's Cancer Care in Miami, FL. Each December the LAAIA purchases and distributes toys to the Jackson Memorial Hospital children's ward, the Ronald McDonald House, and the Children's Home Society. This past year the association also had a 26-week television program on WLRM entitled "Insurance and You." This 1-hour, call-in program involved insurance agents, company personnel, and claims personnel. The purpose of the program was to inform the public on insurance issues ranging from health insurance to auto insurance.

The first president of the association was Manuel Arques. At this year's convention, which was held July 20, Ms. Martha Webster Stark was installed as the first woman president of the association. The new board of directors for 1991-92 to also be sworn were: President-elect, Jorge Ramallo; vice president, Luis Sastre, Jr.; secretary, Daniel Vaisman; treasurer, Mary B. Fernandez; directors, Julio Jimenez, Jenny Palma, Loreta Rodriguez, Rodolfo A. Suarez; immediate past president, Daniel Prenat; associate liaison, George Cintron.

I would like to take this opportunity to thank the many south Florida residents for their involvement in the Latin American Association of Insurance Agencies. Among them are the outgoing board of directors: President, Daniel Prenat; president-elect, Martha Webster Stark; vice president, Jorge Ramallo; directors, Eddy Tagle, Miriam Arencibia, Luis Sastre Jr., Rafael Duarte; treasurer, Ana B. Ramallo; secretary, Mary Fernandez; past president, Andy Rodriguez; associate liaison, Hilda Lopez; editor of the LAAIA newsletter, Annette Rodriguez.

OSHA CITES POSTAL SERVICE FOR HEALTH VIOLATIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. LANTOS. Mr. Speaker, I am pleased to call attention to the recent action by the Occupational Safety and Health Administration [OSHA] of the Department of Labor in which they issued a formal citation against the U.S. Postal Service for willful violations of the Occupational Safety and Health Act. OSHA has found that the Peoria, IL, and Columbus, OH, post offices willfully exposed their employees to severe hazards at their work on two widely used letter sorting machines. These machines are in use throughout the Postal Service.

Although OSHA has the responsibility for overseeing the health and safety of Federal workers, it is virtually unprecedented for the agency to take the drastic step of actually citing a fellow agency for failing to correct serious workplace dangers.

Regrettably, the Postal Service, the largest nondefense employer in the country, has a long history of ignoring advice from OSHA and from ergonomic experts concerning the dangers presented by the letter sorting machines.

In March of this year, the Employment and Housing Subcommittee, which I chair, held a field hearing in California at which we learned about the prevalence of painful and crippling cumulative trauma disorders or repetitive motion illnesses which afflict large numbers of letter sorting machine operators. Over many years employees and unions have complained to the Postal Service and to OSHA about these problems. Repeatedly, OSHA has investigated the complaints and made recommendations to the Postal Service, which has refused to act on them.

This year, OSHA had an intensive study made of the Peoria and Columbus operations by a national authority, Dr. Roger Maris of Ohio State University. When OSHA transmitted his report and recommendations to the Postal Service, they were curtly brushed off. Testimony at my subcommittee hearing revealed stubborn resistance by the postal authorities. After further efforts at conciliation by OSHA proved futile, under the leadership of Assistant Secretary Scannell, OSHA moved to issue a strongly worded citation, setting forth a timetable for corrective action at the two post offices.

They are to be commended for taking this step. However, OSHA has no power to fine or sue a Federal agency, as it does private employers. So it behooves us, as overseers of the Postal Service and all other Federal agencies, to see that the citation is not ignored as previous recommendations have been. We should no longer permit thousands of hard-working postal employees to be exposed to the traumatic workplace situations which have now been thoroughly exposed.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE OLD FIRST REFORMED CHURCH

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to the Old First Reformed Church in Brooklyn. The "Old First" will commence a yearlong anniversary celebration on September 29, 1991, marking the centennial of the dedication of its 1,200-seat sanctuary on September 27, 1891.

The Old First Reformed Church was founded in 1654 and is one of the oldest, continuous ecclesiastical organizations in America. The church's first edifice was built in Brooklyn in 1666. As its congregation grew, the church moved several times before its present-day chapel at Seventh Avenue and Carroll Street was completed in 1889. Rapid growth in the area pushed forward plans to complete the sanctuary, and the church as it stands today was dedicated on that September day 100 years ago.

For countless years, the "Old First" has been serving the spiritual and social needs of our community. The beautiful sanctuary which this celebration is honoring is used for special programs and graduations by local schools. Concerts by the Grace Choral Society and by local folk singers are held there several times a year as well as acting as the home for Boy Scout Troop 14.

I salute the "Old First" on the occasion of this centennial celebration and may the church and our community be blessed with 100 more years.

H.R. 2966

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. BLILEY. Mr. Speaker, I rise today as an original cosponsor of the Petroleum Marketing Competition Enhancement Act, introduced today by my colleague from Oklahoma, Representative SYNAR. H.R. 2966 addresses the existing threat to competition in the gasoline marketplace—a problem that has acutely manifested itself over the past year.

The threat I speak of is the ability of petroleum refiners to render irrelevant the marketing efficiencies of their wholesale customers—the Nation's independent petroleum marketers and dealers—thereby threatening these customers' economic viability. A manifestation of this phenomenon over the last 11 months has been a series of price inversions in the gasoline market.

In a market left to supply and demand, gasoline prices at the terminal, and forward to retail, progress from lowest to highest in the following order: unbranded rack, branded rack, branded dealer tankwagon and retail price.

Since August 1990, however, a series of price inversions have occurred around the country and in some locations continue today. These inversions or "flips" have led to pricing

in this order: retail price, dealer tankwagon, branded rack and unbranded rack.

These price inversions do not represent the free market at work. Rather, they represent the exercise of substantial market power by a limited number of companies to control the price of gasoline. That control represents the unlevel playing field on which competition finds itself today.

On this unlevel playing field, petroleum marketers have frequently found themselves paying a higher price at wholesale than the price that their refiner-supplier sold the product at his own direct-operated outlets.

The consequences of these alterations in historic gasoline market price structure is the infliction of significant economic hardship on independent marketers, who, based upon their operating efficiencies, have traditionally been the most price competitive at the pump. Such circumstances threaten the ability of the independents to compete effectively in the retail market for motor fuels to consumers' detriment.

My dedication to free market principles is well known. That dedication is premised upon my belief that the operation of an undistorted market ensures that consumers receive the benefits of the economic efficiencies which the resourcefulness of entrepreneurs creates as they strive for success in a competitive environment.

A free and competitive market has always benefited consumers. In such a market the entity which most efficiently performs a function succeeds in competition with its less efficient competitors. Thus, I pursue legislation which limits the commercial behavior of businesses only when I perceive that such action is necessary to secure for consumers the economic benefits which the market is supposed to provide for them. My cosponsorship of H.R. 2966 is based upon my concern that absent the enactment of this legislation, the driving public may be denied the benefits which the highly efficient operations of independent gasoline marketers should bestow upon them.

In essence, the legislation is of very limited scope and simple operation. It does only two things: first, the bill would prohibit a refiner which operates a retail outlet with company personnel from selling gasoline to its wholesale customers in the same market at a price which is higher than the price at which it sells gasoline to motorists, adjusted for the cost of doing business.

The objective of such a requirement is to ensure that the operating efficiencies of such a refiner's wholesale customers are not rendered irrelevant in competition with their supplier/competitor. Specifically, an independent marketer's efficiencies are of no consequence in competition with its supplier/competitor if that marketer cannot purchase gasoline at a price which is no higher than the price which that supplier/competitor charges to motorists in the same market.

Second, the bill would prohibit a refiner from controlling the resale price of its independent customers. The Petroleum Marketing Practices Act was enacted in recognition of the great disparity in bargaining power between refiners and their independent customers. The ability of an independent businessman or woman to determine his or her selling price is a corner-

stone of market theory. This provision is designed to ensure that the prices charged by a refiner's independent customers reflect those customers' independent business decisions, rather than an exercise of that refiner's inherent power over its customers.

In summary, as one dedicated to consumers' receiving the benefits of the superior operating efficiencies which undistorted competition generates, I have elected to cosponsor this legislation. I believe it is the least invasive means by which true competition in the retail marketing of motor fuels can be insured. I urge my colleagues to join me in seeking this bill's prompt enactment.

TRIBUTE TO UAW LOCAL 887

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. WATERS. Mr. Speaker, it is my pleasure to commend the UAW Local 887 on its 50th anniversary—50 years of fighting for the rights of working men and women. Since its charter, the members of UAW Local 887 have been led by such illustrious leaders as Charles Dorchester, Paul Lindsey, Franklin Dayton Owens, Rudy Sauser, George Terry, Ed Parkos, Lou King, Paul Schrade, Jack Hurst, Henry Lacayo, Joel Bomgaars, and Al Ybarra. Currently UAW Local 887 is led by Acting President E.J. Schalls.

Prior to the formation of UAW Local 887, workers were represented by organizations such as the International Association of Machinists and the Welders Union. After disputes regarding representation, 7,100 NAA workers voted on July 1, 1941, to form a separate local. With that mandate, UAW Local 887 was chartered on July 15, 1941.

During its 50 years of service to the working men and women of this country, UAW Local 887 has resolved labor conflicts and grievances, brought contracts to successful conclusions, promoted good will and planned organizing campaigns to improve working conditions for its members and other workers. It is appropriate to commend UAW Local 887 for its contribution to the welfare of American workers.

I am pleased to pay tribute to the United Auto Workers Local 887 for enhancing the quality of life of its members through its programs. In these times of high unemployment, recession, and downsizing, it is even more critical that organizations such as UAW Local 887 continue to work vigorously on behalf of local people.

GASOLINE PRICE INVERSIONS

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. COOPER. Mr. Speaker, a strange phenomenon in our Nation's wholesale gasoline markets threatens our local gasoline distributors. If it continues, it could result in less

choice and higher prices for consumers at the gas pump.

Imagine a market in which it is cheaper for wholesale distributors of gasoline to buy 8,000-gallon truck loads of gas at their suppliers' retail filling stations than it is to buy it from them wholesale. Sounds crazy, since retail prices are supposed to reflect transportation and operating expenses that don't exist for wholesale purchases. But it has been happening, and it has created a price squeeze that many marketers cannot withstand.

The bill introduced today by Mr. SYNAR, myself, and others tries to address these bizarre occurrences, known in the industry as price inversions.

Price inversions have occurred on and off in different areas of the country since President Bush called on the major oil companies to lower their retail gasoline prices last August. Retail prices did drop, but in many cases, wholesale prices did not. As a result, the traditional hierarchy of gasoline prices has been turned completely upside down. Refiner retail prices have been lower than their delivered branded wholesale prices which have been lower than branded wholesale prices at the terminal rack, which have been lower than unbranded wholesale prices at the rack.

There is no agreement about why refiner prices became inverted. Frankly, I am less concerned about why than I am about the effect the inversion is having on the wholesale distributors of refiner gasoline, otherwise known as jobbers. Many of these small businesses own or supply stations which compete directly with refiner stations. For several months there was no way they could be competitive without operating at a loss.

The major oil companies have argued that price inversions are natural market phenomena. However, they have so far been unable to explain how it is possible for a company's wholesale gas plus transportation to its retail station can be cheaper than the same wholesale gas without transportation.

The bill we have introduced today seeks to restore the natural hierarchy of prices in those geographic areas in which an oil company is selling both on the wholesale and retail levels. The bill actually proposes to do openly what most of the major oil companies are already doing privately with their secret rebate programs.

These programs were designed to pay off jobbers who are in direct competition on the retail level with their suppliers. The effect is that no one knows what net wholesale prices really are. Perhaps the rebates have had the effect of reversing the inversion for some. But these programs are inherently arbitrary; and they are controlled by the supplier, not by the marketplace as they would suggest. At the very least, suppliers should be required to publicly disclose wholesale rates which reflect their rebates. That way jobbers would have a better sense as to whether they are being treated fairly.

According to the U.S. Energy Information Administration, jobber sales have declined 14 percent over the last 4 years, while sales from refiner-operated stations have increased by the same amount. Major oil companies' income from refining and marketing increased 254 percent during the first quarter of this

year. In contrast, the Petroleum Marketers Association of America calculates that during that same period, jobber income per gallon of gasoline sold fell 73 percent.

I'm not suggesting there is a conspiracy going on to get rid of jobbers, but I am worried about this trend. Jobbers are important competitors. As lean small businesses, they often operate much more efficiently than the refiners. Wholesale distributors have also been responsible for many marketing innovations, like cheaper, self-serve gas. Jobbers are especially important in rural areas where the majors do not find it profitable to own stations.

This legislation does not begin to address all of the factors which have contributed to the financial problems of many distributors. However, it should ensure that they get a fair shake from their suppliers in the marketplace.

I should note that I am not committed to the exact language of the bill. In fact, I have some concern that the margins it would establish might in effect become minimum markups, which would most certainly not be in the best interest of consumers. However, I am cosponsoring it because I feel strongly that these price inversions threaten the livelihood of legitimate and valuable small businesses. I look forward to working with interested parties to perfect its approach.

The other component of this legislation addresses the practice of some refiners to impose maximum retail prices on gas stations they supply but do not own and operate.

The bill would prohibit any agreement or scheme which has this effect and provides competitors standing to sue. There simply are no circumstances under which price fixing—even maximum price fixing—is good for consumers in the long run.

I encourage my colleagues to support this legislation.

EXTENDING MFN TO CHINA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GEKAS. Mr. Speaker, I rise today to discuss the granting of most-favored-nation [MFN] trading status to the People's Republic of China. This extremely significant and controversial issue has been the focus of extensive debate in this body. In the spirit of this debate, I would like to share with my colleagues the contents of a letter recently sent to President Bush by the Asian American Voters Coalition. The following persons were signatories to the aforementioned letter: John Tsu, Ph.D., coordinator, San Francisco chapter, AAVC; Grace Shu, chairwoman, Chinese American Republican National Federation, Pennsylvania; Alfred Liu, president, Asian Benevolent Corps, Washington, DC; I.K. Liang, president, Washington, DC, chapter of the Taiwanese Benevolent Association; Michael Yuan, adviser, Asian American Voters Coalition; Kung Lee Wang, founder, Organization of Chinese Americans; Jane H. Hu, founder, Asian American Voters Coalition, Maryland; Irvine Lai, cochairman, AAVC, California; John Tan, Asian American Voters Coalition, Illinois;

Ping Tom, Midwest cochair, Asian American Voters Coalition, Illinois. I am pleased to report that Grace Shu, a constituent of mine and a signatory to the letter sent to President Bush by the Asian American Voters Coalition, is responsible for bringing the following material to my attention.

DEAR PRESIDENT BUSH: Your decision to grant most favored nation trading status to the People's Republic of China is strongly supported by those who understand the current conditions and future developments of China.

Free trade is the best way to expose the communist Chinese government to the benefits of free commerce and international trade. Trade has been a primary channel for contact between Americans and Chinese, sharing the ideas and values which have contributed to progressive developments within China. Free trade has also improved the living standards for hundreds of millions of Chinese people. These changes in the right direction will eventually lead China to freedom and democracy.

If China is denied the MFN status, the most effective channel of communication between Americans and Chinese would be closed. The only way to get China to change is to exert a positive influence to lead Chinese government to economical stability which will give them the security needed to allow more freedom and democracy to their own people.

Today, very few people in China still believe in communism; however, they are afraid of total political and economical collapse caused by radical reform. A natural and peaceful evolution to freedom and democracy is most likely as Americans continue to have strong influence on China. Chinese leaders cannot be forced to change, they will respond very negatively. However, showing them positive results and future prosperity, they will cautiously change their directions.

If the MFN status for China is denied, China may face the danger of economical breakdown and billions of people will suffer. Now the United States may have to spend 1.5 billion dollars to prevent the total collapse of the Soviet Union. We certainly do not want to spend billions of dollars in the future to save China from total collapse. All countries have to work together to solve the problems of today's world.

The crackdown at Tiananmen almost crushed any hope we have had for a free and democratic China. We are also angry and disappointed that the Chinese government continue to suppress freedom and to sell nuclear weapons to unstable countries in the Middle East. However, these issues should be dealt with the Chinese government directly using diplomatic and other means without affecting the welfare of Chinese people severely.

We understand your patience and kindness for billions of Chinese people. For this reason, we give you the strongest support and gratitude.

TRIBUTE TO GEORGE JOHNSTON

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to George Johnston of Saginaw, MI, who has been general manager of the Central

Foundry Division since 1985. He has been promoted to general manager of Delco Marine and Delco Products Division in Dayton, OH, and will soon be moving there. He will be greatly missed, particularly because of his efforts to make the foundry in Saginaw a world class model.

As a member of the Saginaw County Chamber of Commerce, George was on the forefront of Saginaw's search for economic expansion. He was also an active participant in the United Way where he was a leader in recruiting voluntary aid for those individuals in our community who most needed help. Of great importance to George were his efforts to improve America's environment for youth through the Boy Scouts of America, Lake Huron Area Council. Besides his contributions to our community, he served in the U.S. Marines Corps during the Korean conflict.

Saginaw is not the only area that recognizes George's fine character. His talents have been recognized by General Motors since 1957. He has worked his way up through various supervisory assignments in manufacturing, process engineering, and personnel. George has served in the Muncie, Indiana Battery Plant, nine plants in Anderson, IN, and facilities in Dayton, OH, and Lockport, NY.

George was born in Anderson, IN, on January 11, 1932, and graduated from Indiana University with a bachelor of science degree in management in 1955. He also attended the Harvard University Business School Advanced Management Program in 1978. George and his wife, Nancy, have two sons.

Please join me in wishing the very best of success to George Johnston. He is a valuable contributor to Saginaw and to General Motors. We will remember him well.

TRIBUTE TO BILL C. DAVIDSON

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to recognize an exceptional community servant, Bill C. Davidson. Since January 1985, Mr. Davidson has been the elected president of the Terminal Railroad Association of St. Louis. On August 1, 1991, he will retire from TRRA after working 43 years in the railroad industry. Bill Davidson's civic contributions to southwestern Illinois on behalf of TRRA over the past 6 years are commendable.

Bill Davidson was instrumental in the completion of numerous transportation projects including the donation of the Tunnel Railroad to the city of St. Louis and the exchange of the Eads Bridge for the MacArthur Bridge, which was essential to the Metro Link Light Rail project.

During his tenure as president, TRRA won the 1986 National Harriman Bronze Medal Award in the switching and terminal group for its employee safety record. This was TRRA's first national safety award since the association's formation almost 100 years prior. Since that time, TRRA has won numerous other safety awards. It is evident that Bill Davidson's commitment to education and improving employee safety has been successful.

Bill Davidson is responsible for the many community outreach programs TRRA participates in, including "Operation Lifesaver," a rewarding program to teach railroad safety to children, and Junior Achievement's "Project Business," a classroom program taught by TRRA employees to introduce young students to the business world.

In addition, he is an active member of the Tri-Cities Chamber of Commerce and the Granite City Rotary Club. One of his more significant contributions to the community is through the Tri-Cities Area United Way.

As chairman of the United Way Major Firms Division, he was able to raise 67 percent of the \$1,049,000 raised in the 1990 United Way campaign. TRRA has increased employee participation in the campaign significantly since Bill Davidson's arrival, and his encouragement and supportiveness to employees has enabled donations to be increased by 352 percent in the past 6 years.

Bill Davidson, through his superior leadership and involvement in the community, has contributed to the future prosperity for the southwestern Illinois region and has laid the groundwork for the future progress in many areas of economic development. I ask my colleagues to join me today as I recognize Bill for his significant accomplishments.

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 Tuesday, July 23, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 24

9:30 a.m.

Commerce, Science, and Transportation Communications Subcommittee

To hold hearings on S. 1410, to protect the rights of consumers from unsolicited telephone marketing calls, and S. 1462, to revise the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.

SR-253

- Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on S. 976, authorizing funds through fiscal year 1996 for programs of the Solid Waste Disposal Act, focusing on toxics use and source reduction provisions. SD-406
- Judiciary
To hold hearings on the nominations of Eugene E. Siler, Jr., of Kentucky, to be United States Circuit Judge for the Sixth Circuit, William G. Bassler, to be United States District Judge for the District of New Jersey, and Jorge A. Solis, to be United States District Judge for the Northern District of Texas. SR-332
- Special on Aging
To hold hearings to examine the treatment of low-income Medicare beneficiaries. SH-216
- Joint Printing
To resume hearings to examine the technological future of the Government Printing Office. B-318 Rayburn Building
- 10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business. SD-366
- Foreign Relations
To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific (Treaty Doc. 102-7), and the Convention for a North Pacific Marine Science Organization (Pices) (Treaty Doc. 102-9). SD-419
- Judiciary
Patents, Copyrights and Trademarks Subcommittee
Technology and the Law Subcommittee
To hold joint hearings on S. 1096, to ensure the protection of motion picture copyrights. SD-226
- Labor and Human Resources
To resume hearings on certain provisions of S. 1227, to reform the nation's health care system to assure access to affordable health care for all Americans, focusing on its economic impact. SD-430
- 2:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings to examine certain problems in bankruptcy, focusing on airline leasing, the interaction of ERISA law in bankruptcy proceedings, and whether "Evergreen Trusts" are authorized by bankruptcy codes. SD-226
- JULY 25
- 8:45 a.m.
Office of Technology Assessment
Board meeting, to consider pending business. EF-100, Capitol
- 9:30 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Securities and Exchange Commission. SD-538
- Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 621 and H.R. 543, to establish the Manzanar National Historic Site in California, S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area in California, S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history, and H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn. SD-366
- Governmental Affairs
To hold hearings to examine activities of the Food and Drug Administration, Department of Health and Human Services. SD-342
- Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution. SR-301
- 10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. SD-406
- Foreign Relations
To resume hearings on the Treaty on Conventional Armed Forces in Europe (CFE), with Protocols on Existing types (with Annex), Aircraft Reclassification, Reduction, Helicopter Recategorization, Information Exchange (with Annex), Inspection, the Joint Consultative Group, and Provisional Application; all signed at Paris on November 19, 1990 (Treaty Doc. 102-8). SD-419
- Labor and Human Resources
To hold hearings to examine certain issues relating to coverage for personal care attendants' services. SD-430
- Veterans' Affairs
To hold hearings to examine readjustment problems of Persian Gulf War veterans and their families. SR-418
- 10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs. SR-301
- 11:00 a.m.
Budget
To resume hearings to examine alleged waste and abuse in the Medicare program, focusing on practices involving payment and coverage of medical equipment and supplies. SD-608
- 2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness. SD-366
- Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on international commercial nuclear reactor safety. SD-406
- Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations. SR-485
- Select on Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations. SR-485
- Joint Economic
To hold hearings to examine the current poverty situation in the United States. 2359 Rayburn Building
- JULY 26
- 9:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on current educational television programming and to examine new technologies which could impact the future of educational television. SD-430
- 9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 353, to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes. SD-226
- 10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 58, to establish a national policy for the conservation of biological diversity. SD-406
- Joint Economic
To resume hearings to examine the economic outlook at midyear. SD-628

JULY 29

9:30 a.m.
Environment and Public Works
Superfund, Ocean and Water Protection
Subcommittee

Business meeting, to mark up S. 792, to authorize funds for programs of the Indoor Radon Abatement Act of 1988, S. 455, to establish a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, and S. 1278, to authorize funds for fiscal years 1992, 1993, and 1994 for the Office of Environmental Quality.

SD-406

10:00 a.m.

Environment and Public Works
Superfund, Ocean and Water Protection
Subcommittee

To hold hearings on proposed legislation relating to Superfund problems facing municipalities.

SD-406

2:00 p.m.

Environment and Public Works
Water Resources, Transportation, and In-
frastructure Subcommittee

To hold hearings on oversight of the General Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.

SD-406

JULY 30

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to examine and evaluate recent developments relating to international negotiations on global climate change and stratospheric ozone depletion.

SD-406

Judiciary

Constitution Subcommittee

To hold hearings on issues relating to abortion as contained in Rust versus Sullivan.

SR-332

10:00 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

2:30 p.m.

Energy and Natural Resources

Mineral Resources Development and Pro-
duction Subcommittee

To hold hearings on S. 1179, to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants, and S. 1187, to revise the Stock Raising Homestead Act to provide certain procedures for entry onto the Stock Raising Homestead Act lands.

SD-366

JULY 31

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Transportation.

SR-253

Finance

To resume hearings on S. 612, to encourage savings and investment through individual retirement accounts (IRAs) in an effort to stimulate economic growth for Americans and the nation.

SD-215

2:00 p.m.

Energy and Natural Resources

To resume hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and sci-

entific and technological competitive-
ness.

SD-366

AUGUST 1

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests
Subcommittee

To hold hearings on S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Forest Service in the States of California, Oregon, and Wash-
ington.

SD-366

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 22, to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, and to maintain the stability of the greyhound racing industry.

SR-253

Environment and Public Works

Water Resources, Transportation, and In-
frastructure Subcommittee

To hold hearings on a proposed Depart-
ment of Transportation headquarters,
and the relationship between the Judi-
ciary and the Government Services Ad-
ministration for the provision of space
for the Courts.

SD-406

3:00 p.m.

Judiciary

Patents, Copyrights and Trademarks Sub-
committee

To hold hearings on proposals to extend
the patent term of certain products, in-
cluding S. 526 and S. 1165.

SD-226

SEPTEMBER 24

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House
Committee on Veterans' Affairs to re-
view the legislative recommendations
of the American Legion.

334 Cannon Building