SENATE—*Friday, November 22, 1991*

(Legislative day of Wednesday, November 20, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC.

PRAYER

The Reverend John E. Stait, Associate, Navigator Ministries, Washington, DC, offered the following prayer:

Let us pray:

O come, let us sing unto the Lord: let us make a joyful noise to the rock of our salvation. Let us come before His presence with thanksgiving, and make a joyful noise unto Him with psalms. For the Lord is a great God, and a great king above all gods.—Psalm 95:1-3.

Almighty God of Heaven and Earth, Creator of love, forgiveness and, therefore, salvation, we are so consumed with ourselves—what we don't have, what we haven't achieved yet, what we think we need to be happy.

We lack faith in Your provision because we are reluctant to submit to Your perfect plan and trust You for the results. We are trying to save our lives and, therefore, we are losing them.

Help us, as the Thanksgiving season approaches, to appropriate Your provision for our forgiveness, to forgive ourselves, to forgive others who have hurt and disappointed us, to be genuinely thankful and praise God from whom all blessings flow. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 22, 1991.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

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 9:30 a.m. with Senators permitted to speak therein.

The Senator from Missouri [Mr. BOND] and the Senator from Kentucky [Mr. MCCONNELL] are permitted to speak for 15 minutes equally divided.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Missouri.

Mr. BOND. I thank the Chair.

WETLANDS SIMPLIFICATION ACT

Mr. BOND. Mr. President, today, I, along with Senator MCCONNELL, Senators HEFLIN, NICKLES, BURNS, CONRAD, DANFORTH, and PACKWOOD, introduce the Wetlands Simplification Act. This overdue, badly needed legislation is supported by the Missouri Farm Bureau, Missouri Department of Agriculture, Missouri Corn Growers Association, Missouri Soybean Association, Missouri Cattlemen's Association, the Cotton Producers of Missouri, Missouri Rice Council, Missouri Pork Producers, American Farm Bureau Federation, National Cattlemen's Association, National Association of Wheat Growers, American Soybean Association, the National Corn Growers Association, and the National Pork Producers Council.

Why are all these organizations supporting this legislation? Quite simply because the Federal Government has created a nightmare for farmers. Go into any coffee shop where farmers gather, or any town meeting, visit with a farm family in your State and ask them what is their greatest headache. And they will tell you it is wetlands and trying to figure out what to do with wetlands.

Farmers make their living from the land, working with it every day. Often their land has been in the family for many generations and, God willing, they hope to be able to pass it along to their children. You see, a farm family's land, including a wetland is precious to them, certainly more precious than it is to any Government or any interest group.

Most farmers I have talked to want to protect their land and they want to comply with the law. But it is heavy-handed Government, pushed by overzealous activists, that makes this very difficult. Some people seem more concerned about preserving a wet piece of ground than they are about preserving family farmers.

If you are a farmer with a single wet patch of ground on your land, you are up against four different agencies of the Federal Government, armed with complex and confusing regulations from two very different pieces of legislation overseen by two Senate committees. Even worse, the four Federal agencies probably will not even agree on whether the patch of wet ground on your farm is a wetland or not, let alone how you should handle it. But if you do not handle it right, you could be penalized or fined tens of thousands of dollars.

Any one of these four Government agencies could come on a farmer's land at any time with no warning and tell him one story about his land. The farmer, who works hard every day, struggles to make a living from his land for his family, pays his taxes and obeys the law, then follows this story and does what the Government agent tells him to do. However, the next week another one of these four Government agencies come on the farmer's land, again with no warning, and tells him a totally different story. Well, that farmer is now surprised, confused and not sure what to do. A week later the farmer gets a letter in his mailbox from the Federal Government threatening legal action and fines.

That is exactly what happened to Jerry Lightle and Ray Bleich, two farmers in Andrews County, MO.

Unfortunately, this is not an isolated case. This story is repeated every day in this country. Farmers across America dread the day they find a Government agent running around uninvited on their land. A neighbor, a friend, someone in the next county—most farmers know or have heard of a story like this. I have heard them all over my State, and I think it is time to say enough is enough.

We tried to clear up the wetlands problem during the 1990 farm bill debate. I believe the Soil Conservation Service [SCS] and the Agricultural Stabilization and Conservation Service [ASCS] personnel have done a solid job of educating farmers on sodbuster and swampbuster regulations. I believe the President has announced a commonsense approach to wetlands.

Unfortunately, when you throw in section 404 of the Clean Water Act, the wetlands issue becomes mud. The Clean Water Act was designed to prevent pollutants from flowing from one body of

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

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water to another. Now regulators use it as an open-ended mandate for a completely different purpose. In less than 20 years, the section 404 program has gone from regulating navigable waters to regulating corn and soybean fields.

Mr. President, around the country, there are over 400 case studies where farmers and ranchers have been caught up in the bureaucratic mess of wetland regulations. These are the documents of those 400 cases. I want to share with my colleagues a few quick stories that took place in my home State of Missouri.

First, a little more than a year ago, my staff and I brought together four different agencies—the Corps of Engineers, SCS, EPA, and the Fish and Wildlife Service—together to work out a wetland problem on the farm of Earl Stolte in St. Louis County, MO.

As we listened to them, there were two very different views on whether this particular piece of property was a wetland, and the agencies could not even agree on the proper course of action for the farmer to follow. How is he, as a subject of the Federal Government, to respond to four different agencies that tell him four different things? It makes no sense.

Let me cite another example. Recently, Jerry Lightle in Andrew County was visited by a representative of the Corps of Engineers to discuss his 404 permit problem. The corps representative, after looking over the land, informed the farmer that he also had a wetland problem which was evident because he had standing over in the field cattails. He said, "Look at those cattails." The farmer, Jerry, informed the corps representative that what he was looking at were the heads of milo, grain sorghum, not cattails, not wetlands vegetation.

It is time for legislation that will end these regulatory nightmares that farmers and ranchers have been experiencing. It is time for a commonsense approach to wetlands, one which will assure that the legitimate environmental purposes are realized, but that farmers will not be subjected to four contradictory, conflicting and uncoordinated views from the Federal Government.

It is absolutely incredible to me that currently there are four different agencies and two different pieces of legislation regulating a single damp piece of ground on a farmer's land.

The inconsistency caused by separate determinations of wetlands substantially burdens farmers and ranchers. The results are unnecessarily cumbersome, slow, and unpredictable. They can be alleviated if responsibility for making wetlands determinations was carried out by one agency.

The Wetlands Simplication Act would give the Soil Conservation Service, in consultation with the Fish and Wildlife Service, the authority to provide consistent interpretations and make all technical determinations concerning wetlands on agricultural lands only. It would apply only on agricultural lands.

This bill will not reduce the oversight authority over wetlands. It will not change the underlying provisions. It is common sense to let the one Federal agency with the most experience be the one stop shop for farmers and ranchers when seeking answers on what to do about land on their property that may be wet.

The Soil Conservation Service has a long history of working with farmers; it knows farmers and farm operations and can apply that understanding to these determinations. With their 3,000 offices nationwide, SCS has a positive working relationship with the farming community in every county of the country.

I can assure you after talking with farmers in my State they have great respect for the expertise and for the understanding of the representatives of the Soil Conservation Service.

Out of the nearly 1.9 million wetland determinations that SCS has made to date, only about 300 have been appealed. This outstanding working relationship is vital to efforts to protect wetland resources because more than 60 percent of the lower 48 States' wetlands are in private ownership.

Wetlands serve as one of our Nation's most valuable natural resources. Protecting and preserving the millions of truly functional wetlands should be a national priority.

However, the 450,000 acres per year that have been largely attributed to agricultural conversion, are inaccurate and does not reflect recent trends. Recent estimates by the USDA, show the total annual wetland losses, both natural and manmade, range from 124,000 to 290,000 acres. Agriculture's share of wetland drainage was only 35 percent of that total.

We can preserve our wetlands without burying family farmers in red tape, bureaucracy, and paperwork. It is clear that we must increase Federal efficiency when dealing with wetlands and clear up any confusion in the agricultural community. The Wetlands Simplification Act is the cure to the problem. Farmers will be able to do their jobs, to earn their livings, and to get a simple, clear, definitive answer from one Federal agency.

That is why I ask my colleagues to join with me in cosponsoring and supporting this legislation.

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

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

S. 2018

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 "Wetlands Simplification Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) technical determinations with respect to wetland or converted wetland on agricultural lands (including the identification of wetlands and the development of wetland restoration and mitigation plans) are currently made by—

(A) the Soil Conservation Service, in consultation with the Fish and Wildlife Service, to carry out subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); and

(B) the Secretary of the Army, acting through the Chief of Engineers, to carry out section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(2) the system of separate determinations made under such Acts has led to unnecessarily cumbersome and slow decisionmaking and to a lack of consistency and unpredictable results in determinations;

(3) the lack of consistency places substantial burdens on private property owners that could be alleviated if responsibility for making the determinations was carried out by one Agency; and

(4) the Soil Conservation Service has a long history of working with agricultural producers to protect soil and water resources, has considerable soils expertise, and has field personnel in almost every county of the United States.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide that a single Federal agency shall be responsible for making technical determinations on agricultural lands with respect to wetland or converted wetland (including the identification of wetland and the development of wetland restoration and mitigation plans) in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service, in consultation with the Fish and Wildlife Service, shall be the Federal agency responsible for all such technical determinations concerning wetlands and converted wetlands on agricultural lands.

SEC. 3. COMPLIANCE WITH WETLAND CONSERVATION REQUIREMENTS.

Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by adding at the end the following new paragraph:

"(4) EFFECT OF DETERMINATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a technical determination with respect to wetland or converted wetland on agricultural lands (including the identification of wetland under paragraph (1) and the development of a wetland restoration or mitigation plan developed under paragraph (1)) shall be used in the administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(B) CONSISTENCY.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of this subtitle shall also be exempt from the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) so long as those lands are used as agricultural lands.

"(C) DEFINITION.—For purposes of this paragraph, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, and nonindustrial forest land, and any other land used to produce or support the production of an annual or perennial crop of a commodity, acquaculture product, nursery product, or livestock.".

Mr. MCCONNELL. Mr. President, we all realize the value of protecting our

environment, particularly our water resources. It has been estimated that 1 out of every 20 acres of the world's land surface can be called a wetland. Wetlands can be found in all climates and countries.

Previous policy has neglected, to some extent, both the economic and ecological value of wetlands. Wetlands serve many valuable environmental, economical, and agricultural purposes. Wetlands serve an important role in erosion and flood protection. Obvious values such as wildlife habitats, water purification, and water storage alone would justify maintaining the wetland.

For a number of years Americans were told that clearing wetlands would help improve our infrastructure, particularly roads, and reduce diseases transmitted by insects. Many university and Government leaders were convinced that eliminating these swamps was the right thing to do. But, after much research, the American public is gaining a greater appreciation for the value of the American wetlands.

However, for all of the wonderful things wetlands do for our environment, there is probably no subject which is more complicated. No wonder it is so complicated—a total of four Federal agencies and various State agencies have some jurisdiction over wetlands and their use. These agencies all serve different constituencies and therefore follow different agendas. The lack of consistency resulting from separate determinations of wetlands has placed substantial burdens on private property owners.

Having four Federal agencies attempt to control wetland oversight has, and will continue to cause, much confusion. It is the American public, and more precisely the Nation's landowners, who suffer most from this slow, cumbersome and unpredictable process.

These "bureaucrats from the black lagoon" hide behind a shroud of forms and throw the landowner into a holding pattern, sometimes for years, until final decisions are provided. In several cases which I am familiar with in Kentucky, working through the process of obtaining proper permits and approvals can take 4, 5, and even 6 years. This often means thousands of dollars in legal fees plus lost income from the property. On top of this is the humiliation of fines, property liens, and even being sued by the Federal Government.

Kentucky Farm Bureau has documented several instances where farmers have encountered problems with wetlands determinations. The one common denominator is the inconsistency of the various Federal agencies. Not only in the actual determinations, but in the amount of time it takes to get an official determination. This is not just happening in Kentucky and Missouri, but in almost every State in the Nation. The American Farm Bureau Federation has compiled more than 400 similar examples from 40 States.

The regulations concerning wetlands must be condensed and handled in a consistent manner. The issue itself is confusing enough without having to get four different agencies attempt to agree on wetland policy. The Government and the American people will be better served by simplifying the process.

The lead agency for wetlands delineation should be an organization which has constant contact with the areas of wetlands, be accessible to the people most affected by wetland policy, and have the technical expertise to understand and implement the regulations in question.

This bill, which Senator BOND and I are introducing today is intended to clear some of the confusion which exists in the farm community over wetlands. It could also allow the various Federal agencies to concentrate their scarce resources in a targeted approach rather than the current broad, duplicative manner.

The bill would make the Soil Conservation Service [SCS], within the Department of Agriculture, the lead agency in wetland determinations on agricultural lands. The Soil Conservation Service maintains a long history of working with farmers and currently has the experience and technical background to oversee wetland jurisdiction of farmland. Additionally, the SCS will be required to consult with the Fish and Wildlife Service in order to provide consistent interpretations.

The bill does not intend to reduce the oversight authority over wetlands. The Corps of Engineers retains all permitting responsibilities. We wish to create consistency. It just makes sense to let the Federal agency with the most experience be the one stop shop for farmers when seeking answers on wetlands.

Ironically, the current hodge-podge of wetlands regulations was never intended to be a comprehensive national wetlands management program. We have a few square pegs which we have tried to pound into a single round hole. We must make a uniform, all-inclusive, wetlands program a national priority and do it now. If we don't act now thousands more acres of vital wetlands will be lost.

The debate and legislation over wetlands originated in 1972 with the passage of the Clean Water Act by Congress. Section 404 of the Clean Water Act began the era of wetlands protection. Section 404 gives the Corps of Engineers the power to issue permits needed to dredge or fill wetlands. Anyone wishing to alter a wetland by making it deeper or filling it must apply to the Corps of Engineers for a permit.

Section 404 has broadened oversight far beyond its original intent for many types of wetlands. Meanwhile, the failure to expand jurisdiction over nonpermitted conversion has cost the Nation hundreds of thousands of acres of wetlands. Last year one-quarter of a million acres of wetlands were converted by nonregulated means such as excavation, channelization, and drainage.

In addition to the 1972 Clean Water Act, Congress passed the swampbuster provisions in 1985. The swampbuster provision gives the U.S. Department of Agriculture the power to deny Federal commodity crop subsidies to farmers planting on wetlands which have been converted to agricultural uses after December 25, 1985.

The wetland regulations have become a mess of tangled, conflicting provisions. Most of my State's wetlands are in western Kentucky which is where rowcrop production is concentrated. It is not surprising that is where the majority of hotly disputed wetland cases occur.

By the current definition of a wetland, over 60 million acres of presently farmed wetlands could possibly be taken out of production and protected as wetlands. In this 60 million acres, the majority of land has small areas that are covered by water only after a spring rain and only for a matter of days. In the case of Kentucky, it is these river bottoms which are the most productive farmland in the State.

Of the figures I have found, it is reported that agricultural wetlands consist of 75 percent of the estimated 95 million acres of remaining wetlands. Over 71 million acres of wetlands are located in private, largely agricultural lands. The American farmer is by far the most affected party in the wetlands debate.

The Soil Conservation Service has and continues to be in day-to-day contact with all of the wetland areas. Their hands on experience, and their technical knowledge, makes them the obvious choice. There are 98 district conservation offices in Kentucky with a field staff which extends into all 120 Kentucky counties. Each conservation district operates with an elected local advisory committee made up from local residents.

Also, the Soil Conservation Service has a single statewide office to which all of these county and district offices are responsible. All 50 State offices are then ultimately responsible to the Department of Agriculture.

Another distinct advantage which the Soil Conservation Service has is an established appeals process for individual property owners to disagree with determinations by the SCS. Landowners have been very frustrated because the only process to disagree with a decision by the corps or EPA is through a court of law.

Simply put, Federal wetlands protection programs are a mess unless we act to streamline and improve the current procedures. If we do not act promptly,

thousands more acres of wetlands will be lost and more landowners will be put unnecessarily through the wringer.

Mr. President, I want to thank the Senator from Missouri [Mr. BOND] for his leadership on this issue and commend him for his dedication to help our Nation's farmers, particularly those in my State of Kentucky. I want to encourage my colleagues to review this legislation and urge their support. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

FLEXIBLE MANDATORY CAP ON CREDIT CARD INTEREST RATES

Mr. LIEBERMAN. Mr. President, yesterday the Senate struck a blow for America's consumers when it approved, along with the banking legislation, flexible cap on credit card interest rates. Since we originally passed the credit card legislation last week my office, like so many others, perhaps all others, has been deluged with phone calls and faxes from the major banks and other credit card companies. My staff and I have met with representatives from these institutions, and listened to their arguments opposing interest rate caps, and describing the impact the cap might have on them.

They made some points that are worth considering. But I want to say here this morning that no one has convinced me that our basic premise, which is that the banks are charging too much interest on consumer credit card debt, is wrong. No one has convinced me that the basic premise of the need for some limits and the need for lower credit card interest rates is right.

What has disappointed me over the past week is the amount of hyperbole, misinformation, and at times indeed hysteria that has been spread by the special interest groups opposed to this credit card interest rate cap. The banks would have us believe we caused a 120-point drop in the stock market last Friday, when everybody knows there are a host of other economic indicators and facts that caused that drop. They would have us also believe that they will drop 60 million consumers, customers, credit card customers, abandoning this remarkably lucrative mass market business and issue credit cards only to the very rich. That does not make any economic sense.

We have been told that the regulation of interest rates is an unheard of intrusion into the free market.

Mr. President, it is time for some calm and perspective here. Regulation of interest rates is not, as the Secretary of the Treasury has said, a wacky idea. Indeed, it is as old as the Bible, and has been accepted as an appropriate part of legal systems since the earliest days of the English common law.

In fact, every State in this Union that I know of has some form of usury laws. Until the late 1970's most States imposed interest rate caps on consumer loans including credit cards, in order to protect consumers from unscrupulous lenders.

It is interesting to note that what brought an end to these State rate caps was not an economic revelation, but a remarkable Supreme Court decision, Marquette National Bank versus First Omaha Services Corp., that effectively enabled renegade States to lift credit card rate caps throughout the Nation by allowing credit card companies to charge customers whatever rate was allowed in the credit card company's home State. States could no longer protect their own citizens against usurious rates charged by out-of-State credit card companies.

Connecticut's experience with rate caps is instructive. Following the relentless increases in rates that naturally followed the Marquette decision, Connecticut, after much debate, enacted a 15-percent cap on credit card interest rates. The State was eventually compelled to lift the cap, not because credit card companies were stripping Connecticut residents of their cards or failing to issue cards to Connecticut residents, but because the State's cap could easily be circumvented by transferring the credit card company's home office to an out-of-State location which had no limit on credit card interest rates.

Just recently the attorney general of Connecticut, Richard Blumenthal, wrote to me urging that this Senate consider enacting a cap on credit card interest rates that could be exported to other States, as he put it. He urged us to make some improvements in existing credit card disclosure laws as well. His office was increasingly frustrated by its inability to take action against credit card companies located outside of the State which not only were failing to decrease the interest rates they were charging Connecticut residents, but were actually increasing the rates they were charging Connecticut consumers.

Attorney General Blumenthal's experience and, indeed, Connecticut's experience with credit card rates over the past 10 years greatly influenced my decision to cosponsor and support Senator D'AMATO's credit card amendment. Connecticut's experience has also increased my skepticism about the dire predictions with which the banking industry has reacted to the current proposal.

My constituents cannot understand why banks are paying them less and less on their savings but still charging them almost 20 percent interest on their credit cards. They cannot understand why the banks, given the annual fees, late fees and other charges that credit card companies require them to pay, cannot, as they claim, make a reasonable profit under a flexible rate cap that reflects the decreasing cost of money to the banks.

They simply do not understand why banks have decreased rates for auto loans and mortgages, loans that have clearly been hit as hard by bankruptcies and economic problems today as credit cards but cannot lower the rates for credit cards.

Mr. President, as this banking bill now goes to conference committee, I know that there are powerful forces arrayed to strip the credit card interest rate cap out of the bill. But I want to ask them this morning before they rush in to do that to think long and hard. I want them to understand that those of us who supported the amendment last week do not want to be unfair to the banks.

We believe that we can enact a cap that is fair to the banks but also fair to consumers as well, one that does not continue this hidden bailout for the banking industry. If that fair rate is not 4 percent over the IRS underpayment rate and the banks and the credit card companies can convince us that it can be 5 or 6 percent if they have fine-tuning recommendations to make to our proposal, if the retailers, as many have come to us and said they are different from the banks, they do not make money on credit cards, in fact they are loss leaders for them, we are open to all those discussions. That can all be fixed in conference. There is time to work out those details.

I think it is fair to say that those of us who believe in the need for a credit card interest rate cap are prepared to listen to our critics and accept reasonable changes in the current proposal. But what we cannot accept is a continuation of the status quo.

So I urge the conferees, the House of Representatives, the White House to join the Senate in sending the credit card industry a strong message: To get those unfair rates down and to support fairness for the average, hard-hit American consumer by moving expeditiously toward enacting a fair limit on credit card rates.

Mr. President, we, in Congress, cannot stand idly by and let consumers be treated so unfairly. Lower credit card interest rates must be achieved. The fundamental unfairness we are experiencing right now cannot go on, and I hope the message gets through to the banks and the credit card companies: Our economy will benefit if consumers say no to high rate credit cards and more banks say yes to lower rates.

I thank the Chair, and I yield the floor.

Mr. D'AMATO addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York.

CREDIT CARD CAPS

Mr. D'AMATO. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Connecticut as it relates to the opportunity for the Congress to do something to help the consumer, to help working middle-class families during this extraordinary difficult time of recession—and we are in a recession.

When the marketplace is free, when the marketplace is competitive, when there is true competition for business, there is no need for this kind of legislation, and I think my good friend from Connecticut would agree with me. But I think he would also agree that we do not have that kind of competition today. One need only look at the record and when one understands that the 10 largest credit card issuers control 50 percent of the market and sees that 7 out of 10 have the identical rate, 19.80, to the decimal; that the eighth has a 21 percent rate; and two others are at 16 plus; we find that there is not that kind of competition. And indeed, we know that something is wrong.

We all know it and we know why it is tolerated. We have heard it said in our Chambers and our private circles when those who have come to us said, look, this is an area where the banks are making lots of money. That is the real reason, because the banks are making billions of dollars in profits and no one denies them, nor would this Senator want to deny them a fair return on their investment. But when we talk about returns that are in excess of 100 percent, 200 percent, 300 percent, some approaching 400 percent how do I come to this?

Mr. President, the interesting thing is that the cost of money to the banks has come down. The Federal Reserve has continually moved, repeatedly, almost a dozen times, to reduce the cost of money.

Why has it lowered the discount rate?

It has lowered that so that it could make cheaper money available to the banks so that the banks, in turn, could cut their rates of interest that they charge and, indeed, they have.

And so while the cost of money to the banks has come down, while the cost of money that the banks pay out to those who have savings accounts, checking accounts, certificates of deposit are at historical lows, probably the lowest in the past 20 years—about 4.68 is what the average cost of money is for the banks—while the prime interest rate has come down during this time, there is an absolute correlation between what interest rates should be paid by consumers as it relates to the cost of money.

We have not seen reductions in the consumer area as it relates to credit cards, but we have seen increases. They have actually increased since 1985. While the cost of money to the banks have come down, they have increased the cost to the consumer. It is wrong. It is a hidden bailout. If anything, let us put the spotlight on it.

I have to say this. I do not think our legislation is perfect. As Senator LIEBERMAN indicated, people say, listen, maybe it should be tied to prime rate. Fine, we can come up with a formula basically 6, 6½ points over prime. Prime is 7½. Maybe it should be 7 over prime, a floating rate, an indicator of what money costs and what the best customer pays.

How much over prime?

This is not a ceiling, by the way; it floats. It is a ceiling that is tied to the cost of money or the cost of loans that are put out. So it is not an arbitrary ceiling—14 percent plus.

What should it be? Prime plus 8?

I ask my colleagues, is there not a point then when it becomes unconscionable to the people who have to pay this, particularly if the free market system is not permitted to work? Should it be prime plus 9? Prime plus 10? I say to my colleagues, when do we stand up and do what is right?

Maybe we have to rock some boats. It is a powerful lobby out there, and if we think that the people are upset with the institutions of Government, they are, and they have every right to be. I am convinced that they will attempt to take this measure out without attempting to, as my friend and Senate colleague, Senator LIEBERMAN from Connecticut indicated, fine tuning, make it so that it does meet the objections, the legitimate objections and concerns of some of the retailers.

There are differences between the retailer and the bank. But to simply throw it out or to come back with a nonsense study which will impede anything being done is wrong.

Why do we not stand up for that working middle-class guy? He knows something is terribly wrong. We know it, too. When do we have the guts and the courage to do what is right?

This is not the last. This conference report will come back. If it does not address this problem, I want to serve notice that this Senator is not just going to fold his little tent and go home. We are going to make our colleagues accountable and vote on this issue. The people have a right to see that we really are working to protect their interests. I believe that they are entitled to help.

Mr. President, I yield the floor.

THE DEVELOPING EUROPEAN ORDER—AND U.S. INTERESTS

Mr. HELMS. Mr. President, the 12-nation European Community will convene December 9 in the historic town of Maastricht in the Netherlands for a meeting that could well be a decisive turning point for Europe. Even more important, from my point of view, it may also be a turning point for the United States and its relationship with Europe.

Several questions are obvious: Will the Maastricht meeting mark the beginning of the end of state sovereignty in Europe? Will it mean that the European Community could emerge as a transnational political power in its own right? All of Europe is ablaze with speculation, but American observers have been strangely silent about an event which could affect the interests of the American people so vitally.

While the British remain true to their traditions of parliamentary sovereignty and state autonomy, the French and Germans press for ever greater political and monetary union. What is startling is that with the exception of defense policy, most of the other countries stand with Germany—and against Britain—in this debate. This tension between transnational power and state sovereignty will ultimately define the new world order.

Even if the Maastricht summit ends in stalemate, the fall of the Soviet empire and the evolution of Europe pose serious dilemmas for United States foreign policy. Powerful forces of nationalism, economic interest, and political and security interests will jockey for dominance in the new Europe. These forces will inevitably lead to new alignments, and to a new position for the United States in Europe.

So the question before us, Mr. President, is how can the United States make sure that the developing world order is an order which supports the interests of the United States?

From this side of the Atlantic, it is sometimes difficult to discern how complex the argument about political union and disunion is. There are a variety of different political interests at stake here. Indeed, in some ways we are watching an ongoing European version of the Philadelphia Convention of 1787.

The British on the one hand subscribe to the principle of subsidiarity. In other words, they want to see the EC only for business which cannot be done better at the national level or lower. The French, on the other hand, believe that the national governments should cede significant sovereignty to the EC, and then take turns controlling it through the European Council. The Germans are in favor of union, but would like to see the EC significantly federalized, with a greater emphasis on the European Parliament. Holland does not like the French plan either because it is afraid that the small states would lose political power.

Mr. President, there are other major issues. The Benelux countries, France, Spain, and Italy would all like to see the European Community develop a more activist social agenda. Again Britain leads the fight in keeping socialism at bay.

On defense issues there is also a split between those forces which favor more European alignment in the West European Union, and those which would like to maintain the power of NATO. And then there is Denmark, which wants to be able to incorporate its neutral Nordic neighbors within the EC structure, and so is dragging its feet on any kind of common security policy.

At the same time, there are other countries waiting in the wings which could also fundamentally alter the character of the EC. The countries of the European Free Trade Association, especially Sweden and Austria, are waiting in the wings to enter the EC. Also, the East European countries, in particular Poland, Czechoslovakia, and Hungary, would also like to become members of the European Community. Looking even farther down the road, a reconstituted Soviet Union, or Russia, or Ukraine could also be significant players in the European scene.

Mr. President, the EC is not the only transnational institution which needs to be studied. Other international institutions are already in place to shape the order that may emerge. Politically and strategically, the chief institutions to watch are NATO, the West European Union [WEU], the Conference on Security and Cooperation in Europe [CSCE], CFE, and EPC, the political arm of the European Community.

The oldest of these institutions, NATO, is being re-evaluated since its strategic mission of containing the Soviet threat seems to have been accomplished. Every one wants to know what its purpose will be in the future. The United States has a major role in NATO, and is therefore seeking a semipolitical role for NATO so that the investment which the United States has made in Europe continues to bear fruit.

However, the importance of CSCE seems to be growing at the expense of NATO. This is significant, since the Soviet Union has a major role in CSCE, but of course, is excluded from NATO. The growing influence of CSCE would seem to indicate a decline in U.S. influence concerning what happens in Europe at the same time that it gives the former Soviet Union a seat at the table—something it never has had before.

The Germans have shown that they are serious about political unification. But they also have the most to win from surrendering their sovereignty to a united Europe. With a population of 80 million people and the most advanced economy in the region, the Germans would control the vital aspects of a united Europe. In a way, they seem to consider the linkage of monetary union to political union as a way to force the other countries to fall into line. If the rest of the European Community does fall into line, the Maastricht conference may lead to political unification, and a major step in the surrender of state sovereignty by the member nations.

Economically, it is important to watch how the European Bank of Research and Development implements its projects of rebuilding the economies of the former Soviet Empire. The EBRD programs may increase the viability of the East Europeans coming into the European Community, but it could also work to sustain a neo-socialist government in the Soviet Empire.

The European Community has two alternatives before it. It could work to incorporate the economies of Eastern Europe in a continental wide version of German unification. On the other hand, it could maintain its current nucleus and base its growth on the economic compatibility of its members. For these reasons it is important to watch how economic integration of Europe develops in 1992 and beyond.

Everyone wants to be on the side of an economic winner, and the EC with its 345 million person population and $6.75 trillion GDP is likely to become the single largest and most important economic entity, until or unless the United States expands its own free market zone deeper into South America.

The EC has long had problems with its basic identity. What England wants is far different from what the socialist south wants. The development of majority rule on most issues in the European Community, would not only severely curtail state sovereignty; it would also lead to a union for more socialist in its economic and social principles. This development would have profound ramifications for the United States, not just economically, but at the most fundamental political levels as well.

Mr. President, there are also areas where existing institutions have not developed to cope with the emerging realities. The EC has handled the Yugoslavian crisis miserably. Nor is there a single international institution which is coping responsibly with the Baltics, Ukraine, or the other countries of the decaying Soviet Union. We need to be able to read the signs of emerging nationalisms and the power of new states, and prepare not just for what will happen, but for what may happen.

President Wilson's tired dreams of internationalism are being resurrected yet again. We must continue to expect to see the explosive effects of nationalism. Nothing can be accomplished on the international level if it goes against the grain of a nation's basic identity. We need only remember the experience of this century to know how fragile dreams of perpetual peace can be.

For these reasons, Mr. President, I submit that the developing world order may not turn out as beneficial as popular opinion seems to indicate. We need to implement a national security policy which can cope with unexpected, as well as expected, developments in Europe and the former Soviet Union. We need to be aware of the fact that the European Community could develop in any number of directions, not all of them in the interest of the United States.

The new European order could expand to include all of Europe and Russia or it could maintain its current nucleus. It could adopt a neosocialist agenda or commit itself firmly to free market principles. It could embrace the United States or it could attempt to isolate the United States. New powers in the Ukraine and Eastern Europe could emerge and old powers decline—as the Soviet Union seems to be doing now.

Mr. President, the institutional arrangements will not be for or against U.S. interests, but the content of those arrangements could well affect our future. For this reason, we have to ask ourselves what would be the best case scenario for the United States amid this mixture of opportunity and danger.

Throughout history, those countries have done best which have managed to avoid conflicts with their chief rivals, exploited opportunities for challenges through surrogates, and developed sound alliances based on a wide range of common interests and values. Our focus for developing United States relations with Europe should be a sound alliance strategy. We need to minimize the ability of an antagonistic rival to develop. And we need to promote international institutions which emphasize our common interests and values.

Mr. President, the European states are embarked on a historic task of redefining their most fundamental political arrangements. These states are doing so in the interests of promoting a stronger political community for the benefit of the European people. The United States, given its own history, would never stand in the way of such an endeavour if it were to be legitimately in the interests of all Europeans. The Europeans must know that we want to work constructively with them to build free markets and democratic political arrangements based on traditional European values.

Likewise, Mr. President, we should work toward the development of a strong Russia, a strong Ukraine, a strong Poland, and strong states in the Baltic which are democratic, market-oriented, and pro-American. We need to demonstrate, Mr. President, that these three qualities—democracy, market economies, and pro-Americanism are synonymous with strength.

Is this, then, the new world order of which we hear so much? I think not. The institutions of the new order need to be judged not by their structure, but

by their content and their general directions. We should not applaud every development that results in a new, stronger Europe. We do not want to see our alliances with individual European nations weaken, nor our power to compete in European markets diminish. Neither do we want our own national integrity and sovereignty to vanish into some global superstructure that takes away our freedom of action.

Mr. President, we should support a strong, unified Europe only if it is in our interest to do so. The imposition of out-moded socialist welfare principles or the development of European defense arrangements which vitiate the sacrifices of American time, money, and blood must be fought.

It is true that we have vital security, political, and economic interests in Europe. But we cannot afford to support institutions which may be opposed to our interests in the long term.

Institutions such as the European Bank of Research and Development are redundant and potentially impossible to control. We should not send U.S. taxpayers' dollars overseas to promote institutions like these which dilute American strength and leadership.

Mr. President, we should be wary. We should be prepared to reject a new world order which does not develop in accord with our national interests. At the same time we should make sure that we do everything in our power to make sure that it genuinely does develop in our national interests.

The European summit on December 9 in Maastricht will be a time of testing for the developing world order. It may help to determine the direction of U.S. diplomacy in the years to come.

TRIBUTE TO JUDGE PELHAM JONES MERRILL

Mr. HEFLIN. Mr. President, it is with sorrow that I rise today to pay tribute to the life and career of the late retired Alabama Supreme Court Justice Pelham Jones Merrill. My friend and former colleague died on November 5 at the age of 84. Public service was truly in the blood of this teacher, legislator, and distinguished jurist from Cleburne County, AL.

His grandfather, J.W. Jones, served in the State legislature; his father, Circuit Judge Walter B. Merrill, served as a State senator and representative; an uncle, Ralph Jones, was a Senator and House Member; another uncle, Hugh D. Merrill, Sr., was Lieutenant Governor, a State senator, and House speaker; and a third uncle, John W. Abecrombie, served as a Member of Congress from Alabama, as an Acting Secretary of Labor under President Woodrow Wilson; and later as president of the University of Alabama. It is no wonder, then, that such a lineage produced a man of accomplishment like Pelham Jones Merrill.

Attending local schools and entering the University of Alabama at the age of 14, Pelham Merrill graduated at the age of 18. He taught school and coached for 5 years, eventually becoming the Bibb County supervisor of opportunity schools, where adult men and women learned to read and write.

He earned his law degree from Alabama in 1934 and soon became active in local and State Democratic Party politics. Beginning in 1936, he served in the State legislature, but left the political arena in 1942 to join the Air Force. After World War II, Pelham was elected to two terms in the legislature, twice serving as House Speaker pro tempore. He became Justice Merrill in 1952, when he was elected to the State's highest court. He served there as an associate justice until his retirement in 1976.

During his illustrious career, Judge Merrill worked diligently to improve Alabama's judicial system. He wrote numerous articles on the subject, and authored bills creating the courts of criminal and civil appeals. A Mason and American Legionnaire, he was a member of the Farrah Law Society; American Bar Association; American Judicature Society; Alabama State Bar; and the Alabama Law Institute.

Among his many honors and achievements were his election in 1978 to the Alabama Academy of Honor; his receiving the dean's award from the University of Alabama and Cumberland Schools of Law; and his being awarded the Eugene W. Carter Medallion, presented to him by the Administrative Law Section of the Alabama Bar.

Mr. President, Judge Pelham Jones Merrill's contributions to the administration of justice are countless. He displayed wisdom, amiability, and kindness on the bench and in the conference room. His persistence in the study of cases assigned to him and the promptness in which his decisions were made brought honor to the court. His opinions evoked outstanding comment from legal scholars all over the Nation, and were noted for their soundness, clarity, and forthrightness. He was truly a judge's judge. Everyone who served on the Supreme Court of Alabama with him always considered him to be Alabama's finest jurist. Like others who knew and worked with Judge Merrill, I considered it a tremendous pleasure and privilege to have served with him.

I extend my heartfelt condolences to his wife, Gladys, to whom he was married for 55 years, and to his entire family. One of Judge Merrill's favorite quotations, from Daniel Webster, epitomized his career:

> I shall be content if, when my days are numbered, it can truthfully be said of me that with such ability as I possessed, and whenever opportunity offered, I labored faithfully, to build this temple higher in my time.

If we assume that Pelham Merrill's "temple" was his State and its judicial system, then we know that he was very contented when he left us, for he did indeed leave his temple "higher during his time."

Mr. President, I ask unanimous consent that an article on Judge Merrill's career be included in the RECORD.

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

[From the Montgomery Advertiser and Alabama Journal, Apr. 26, 1987]

SPECIAL ROOM TELLS THE TALE OF JUDGE'S ILLUSTRIOUS CAREER

(By Alvin Benn)

MONTEVALLO.—Pelham J. Merrill—teacher, coach, lawyer, prosecutor, soldier, legislator, Alabama Supreme Court justice and civic leader—has found a repository for mementos of his illustrious career.

It's a special room at Reynolds Hall at the University of Montevallo, and at 2 p.m. today friends from throughout Alabama will be on hand to help the 79-year-old Merrill dedicate it.

Credit for the room belongs to Merrill's wife of 51 years, a woman who has spent her life as his faithful companion, traveling partner and, at times, press agent.

"My husband has had careers in many fields and I felt they should all be preserved," said Gladys Merrill, as she took a breather from hanging up some of the certificates in the room.

The walls are filled with memories of a man who went to the University of Alabama at the age of 14 and used the head start as a springboard into multi-faceted careers.

His life hasn't surprised those familiar with the Merrill family. His father also was a lawyer, legislator and judge.

Pelham Merrill went him one or two better, however, and came away with some priceless stories about the movers and shakers of Alabama who held sway for more than half a century.

One of the most colorful was James E. "Big Jim" Folsom, a two-term governor whose career included some bizarre happenings—some apocryphal, but taken as the gospel today.

One belief held by many credits Folsom with shooting into the ceiling of the Montgomery Country Club during a reception many years ago.

Such was not the case, says Merrill, because he was there and knows who did it.

"Most folks there had taken several nips and a sheriff near us was just plain drunk," he said. "He kept telling a particularly boring speaker to shut up and when he didn't the sheriff pulled out his pistol and fired it into the ceiling."

Folsom, known to have taken a nip or two himself in his lifetime, was as sober as the judge during the event and was not about to leave.

"We all knew he'd be blamed for it and we wanted to get him out of there," Merrill said. "He went upstairs because he was afraid somebody might have been hit by the bullet."

No one was.

They were able to spirit Folsom out of the country club, and though he was innocent, the legend of Big Jim and the ceiling shooting was born.

That incident occurred decades after Merrill already had established himself as one of Alabama's leading citizens.

He had been a teacher and coach at West Blocton High School, where he taught the

first seven classes and then was "allowed" to get the football team into shape late in the day.

His 13-member team had not won a game the year before he arrived. In his first year, they lost only one game and won the county championship.

His love of football remains, perhaps because of his closeness to the University of Alabama's famed Crimson Tide and the legendary Johnny Mack Brown.

The two were in the same class during the 1920s and Merrill remembers Brown as a talented runner with good looks and little gray matter.

"He was one of the finest and dumbest boys I ever met," he said of Brown, who helped Alabama win a Rose Bowl game and then captivated Hollywood with his Southern charm and chiseled features.

Brown, who became a leading man before turning out dozens of "B" westerns, must have been reading cue cards because he surely couldn't remember his plays in the huddle, Merrill said.

"Our coach was Hank Crisp and he kept telling Johnny Mack he'd make him a star, but he would have to remember his plays in order for that to happen," Merrill said.

Brown frequently called his own number to run the ball because he had difficulty remembering what the other players were supposed to do, he said.

When Merrill finally set up his law practice in Claburne County, he found out the Depression did not differentiate between rich and poor. Few had any money.

After one of his first months in practice, Merrill said, he and his partner had $7.00 left after paying their secretary and the rent.

"He got $5 because he was the senior partner," Merrill said. "Guess who got the $2!"

Merrill also found politics to his liking during those days and was elected to the Legislature three times from Claburne County.

He served in the Army Air Corps during World War II, then returned to the Legislature, where he gained the distinction of being the only person ever elected twice as speaker pro tem of the House of Representatives.

In 1947 he was named "Most Resourceful Member of the House" and in 1951 he was named "Most Effective Member" of the lower chamber.

In 1952, Merrill was elected to the first of four six-year terms on the Alabama Supreme Court.

He and his colleagues served during the most turbulent period of Alabama's history following the Civil War.

The civil rights movement emerged after the U.S. Supreme Court's decision to end segregation of schools, which was supported by Congress until 1964, Merrill said.

"Sure I supported segregation in those days," he said. "It was the law of the state and the land. If Congress had taken some action to end it before 1964, (that action) would have been supported at that time, too."

One of the U.S. Supreme Court's most illustrious justices during that period was Hugo Black, a man from Merrill's east Alabama stomping grounds who had to overcome the bad publicity about his Ku Klux Klan membership before gaining admission to the highest court in the land.

"Regardless of what FDR or anybody else had to say about him, he was one of the leading Ku Kluxers in the state," Merrill said. "He knew it was politically helpful in Alabama to be a friend of the Klan.

Black eventually became one of the Supreme Court's leading liberals and was constantly castigated in Alabama because of his pro-civil rights opinions.

For Merrill, his election to the Alabama Supreme Court proved to be the highlight of his career.

He said he loved the legal reviews and enjoyed writing lengthy opinions when they were justified.

Many justices said the work was arduous, but Merrill said it tended to keep his adrenalin pumping during most of the quarter century he served on the panel.

His reviews led some men to the electric chair and others to the bank to collect big judgments.

The case he remembers most involved a grain company and a takeover attempt by one of the stockholders.

It had little of the drama of a capital case, but money and greed tended to generate a special excitement.

According to Merrill, the case filled 26 or 27 volumes and became the most drawn-out appeal in Alabama history.

"It took a whole week just to hear the argument from the two sides," he said. "It was really something. I remember the stockholders used to go to Europe to discuss the price of wheat. It had that kind of element."

Merrill, inducted in the Alabama Academy of Honor in 1976, enjoys his many successes and the company of the woman who has been with him every step of the way.

They haven't had any children and look to the UM Merrill Room as the perfect place to preserve memories of a remarkable life.

For Gladys Merrill, the room is a dream come true.

"I've been thinking about it for a long time," she said. "It's a bit belated, but this is my golden wedding anniversary gift to him."

TO EXPRESS GENERAL RIDGWAY'S GRATITUDE FOR THE CONGRESSIONAL GOLD MEDAL

Mr. THURMOND. Mr. President, recently I had the pleasure of accompanying Senator NUNN, the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and the Vice Chief of Staff of the Army, Gen. Dennis Reimer to present the Congressional Gold Medal to Gen. Matthew B. Ridgway.

I want to report to the Senate that I was deeply moved, as were the other members of the entourage, when General Powell presented the medal to this distinguished patriot and military leader. It appeared that General Ridgway was deeply honored to be recognized for his service to this great Nation.

Mr. President, on behalf of General Ridgway, Senator NUNN, Senator WARNER, and I wish to express his gratitude and thanks to the Congress of the United States for the honor accorded him. I also ask unanimous consent that the letter from General Ridgway which expresses his sentiments be included in the RECORD following this statement.

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

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

Hon. SAM NUNN,
Hon. JOHN W. WARNER,
Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR STROM: Please accept my deepest appreciation for the honor which you and your distinguished colleagues have accorded me, so movingly embodied in the venerable Congressional Gold Medal and so warmly spoken to in the Senate Chamber and in Conference.

I am, of course, by no means the ultimate honoree. That which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve in the cause of freedom that has touched the lives of so many others in so many different lands.

In remembrance of them and on their behalf, I hope you will convey my gratitude and and thanks to the Congress of the United States.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

GEN. M.B. RIDGWAY,
Pittsburgh, PA, November 21, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Your gracious letter of 22 October is deeply appreciated. My only regret is that I was not able to travel to Washington. However, General Powell represented you superbly in conveying your good wishes.

I am not unmindful of the seriousness of this considered action of Congress, which not only has included the efforts of Senators Nunn, Warner and Thurmond, but has involved the concern of the Department of Defense, and, most particularly of your own, in arranging the Congressional Gold Medal ceremony in Pittsburgh last week.

As I wrote to the Senators, that which you have bestowed upon me properly accrues to the thousands of men and women with whom I have been privileged to serve over many years.

On their behalf, as my own, I thank you for your personal interest and testimony.

With deepest respect,

M.B. RIDGWAY,
General, U.S. Army, Retired.

FISCAL YEAR 1992 DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. ADAMS. Mr. President, I take this time to indicate my support for, and I will vote for, the 1992 defense authorization conference report. Despite some reservations that I have about a number of issues, this bill contains several extremely important provisions for the State of Washington.

I am extremely proud of the provisions that establish a trust fund for the cleanup of nuclear waste at Hanford. This was one of my primary goals when I first came to the U.S. Senate in 1987. Today, this proposal is a reality.

Based on legislation I introduced earlier this year, the provisions, sections 3134 and 3135, fulfill the five critical objectives set out in my bill, S. 1462.

First, the legislation establishes a separate, environmental restoration and waste management trust in the Treasury.

Second, safeguards will assure that moneys put into the trust fund are used for nuclear waste cleanup at Hanford and other defense nuclear facilities around the country—and for this purpose exclusively. Money cannot be diverted to defense production or other purposes, as in the past. This has been a big problem for us with the Department of Energy. It will be a problem no more.

Third, the provisions establish greatly needed oversight over the waste cleanup process. They create a direct linkage between waste cleanup activities and waste cleanup agreements, like Hanford's Tri-Party Agreement. These agreements make sure cleanup funding and activities meet local and State laws and needs. The target completion date of 2019 is specifically included in the legislation to help avoid any slippage in DOE's commitment to critical cleanup.

Fourth, the provisions guarantee public participation in the cleanup process. This has been sorely missing. In such a sensitive area, it is no surprise that the absence of public input into DOE's plans may have been more through intent than oversight.

This bill requires consultation with Governors, attorneys general, affected Indian tribes and, most importantly, the public at large in developing 5-year cleanup plans. Section 3135(c) specifically makes $20 million in grants available to States to facilitate such participation and public oversight of the process.

Finally, the bill gives environmental restoration and waste management activities greater weight and visibility at DOE. The managers' statement specifically directs that an office, headed by an Assistant Secretary, be designated in DOE to carry out these activities.

The cleanup of defense nuclear waste is an overwhelming prospect. We are talking about the safety of hundreds of thousands of Americans. Dozens of communities. We are also talking about tens of billions of dollars. The figures boggle the mind.

This legislation gives the people of the Tri-Cities in Washington, and in other communities throughout this Nation, a fund dedicated to making their environment safer. To making their lives safer. I am proud of this bill, and look forward to assuring its implementation in the coming years.

I would also like to point out that this bill will fund my request of $5 million for the Hanford Health Information Network, $1.6 million in fiscal year 1992 and $1.8 million in fiscal years 1993 and 1994. This crucial program helps disseminate information to the people of Tri-Cities about radiation exposure that is or may affect their health.

Other programs for which I requested funding in this bill are the Environmental and Molecular Sciences Lab, which will receive $17.1 million in fiscal year 1992, and section 801 housing for service families at Whidbey Naval Air Station, which will receive $21.11 million in fiscal year 1992. Enlisted families currently wait up to 17 months for adequate housing. These funds should help meet the pressing housing demands at Whidbey.

Mr. President, at this point I wish to extend my deep appreciation to Chairman NUNN, and especially to Senator EXON, who worked closely with me in crafting the Hanford Trust fund provisions. I also wish to acknowledge the outstanding work of Ms. Madelyn Creedon, who assisted me and my staff in drafting the trust fund provisions.

This legislation is a tremendous step forward for defense environmental restoration, the rights of women in the military, and in a limited number of other areas. I support it for these reasons.

I have profound reservations, however, about the amount of taxpayer money that this bill will spend on outdated and unnecessary weapons programs. The bill authorizes $290.8 billion in fiscal year 1992, several billion dollars more than the fiscal year 1991 authorization.

Has nothing changed over the course of the last year? I am astounded that we are still arming ourselves for a showdown with the evil empire. There is no more empire.

We live in a changed world. Both the United States and the Soviet Union have announced massive cuts in their nuclear arsenals. More importantly, the Soviet Union no longer poses the same threat it once did to United States security. The Pentagon has downscaled the Soviet Union to a risk.

A $4.15 billion program for SDI has no place in this new world. Breaking the ABM Treaty, which the SDI provisions of this bill almost inevitably lead to, has no place in this world.

The same is true for the majority of the other strategic programs in this bill. We have agreed not to build more than 15 B-2 bombers. But this bill authorizes $1.8 billion for R&D on this airplane. This does not make sense.

These are substantial sums of money. Every day we hear pleas from the American people to help fix the economy, to offer better education and better health care. We have better uses for this money. I urge my colleagues to rethink their priorities.

DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. MITCHELL. Mr. President, section 334 of H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993, provides that the Department of Defense is to complete, not later than 36 months after enactment of this act, all draft final remedial investigations and feasability studies [RI/FS] at bases scheduled to be closed pursuant to the Base Closure Act of 1991 that are listed on the National Priority List. This provision affects the State of Maine in that the Department of Defense must now complete the RI/FS's for Loring Air Force Base within 3 years from the date of enactment. This new completion date is several years sooner than the time period originally thought necessary and agreed to by the Environmental Protection Agency [EPA], the State of Maine and the DOD.

I am concerned that some States, such as the State of Maine, are under such severe budgetary limitations that the State may not be able to obtain adequate funding or qualified personnel to oversee the expedited completion of the RI/FS as mandated by section 334. This potential lack of funding or personnel could also apply to the Environmental Protection Agency.

The RI/FS is necessary in order to understand the extent of the contamination at the base and to identify cleanup mechanisms. Only a thorough RI/FS can accurately assess the extent of the contamination at the base and identify appropriate cleanup methodologies. Quick completion of the paperwork should not be the sole object of this legislation.

I am further concerned that we may end up in a position a few years hence in which the Department of Defense is racing to complete the RI/FS's and the quality of environmental protection is undermined as a result. Clearly it is in the best interest of affected communities to have the base cleaned up and available for reuse as soon as possible, but environmental and health protection standards should not be compromised as a result.

I understand that section 334(c) provides for an extension of the deadlines established in the legislation in certain situations.

Mr. NUNN. The majority leader is correct in his understanding. Section 334(c) was included to address the problem that he has identified, as well as other situations. I would expect the DOD to request an automatic extension in cases where the Federal Environmental Protection Agency or the State expresses an inability to adequately oversee the RI/FS process due to a lack of funding, a lack of qualified personnel, or both.

We must ensure that cleanup of closing bases remains a high priority and that there are no unnecessary delays. At the same time, we must also ensure that the cleanup process is conducted in a manner that is consistent with all environmental requirements, and that will protect human health.

Mr. KOHL. Mr. President, last night we passed a $70 billion bailout for the Nation's banks by voice vote—presumably because the leadership was afraid that if Members had to publicly record their position on such an unpopular bill, the measure would have been defeated. Today I am afraid we are about

to pass a $290.8 billion bailout for the Nation's defense industry by a recorded vote—presumably because the leadership wants to give Members an opportunity to get some political credit for supporting national defense.

The irony would be amusing if it was not so frightening.

I have no idea why supporting this Defense Authorization Act will generate political credit for anyone. As it has for the past 2 years, this legislation makes a rhetorical bow to the changing world in which we live. The speeches made by the proponents of this legislation recognize that the disintegration of the Soviet state and the Soviet threat has changed our national defense needs. Those speeches also acknowledge the economic and political ability of our allies to carry a greater share of the burden of preserving the peace and creating a new world order. And those speeches also pledge a complete reexamination of our defense programs and strategy, with an emphasis on reducing spending on unnecessary system, because the largest danger we face now is economic rather than military.

They are fine speeches.

But the details of the legislation does not mirror the language of those statements. Let me give you some examples.

As Senator LEAHY—who led the fight to terminate the B-2—pointed out last night, this bill really does not achieve that goal, despite claims to the contrary. I will not repeat his arguments today; suffice it to say that any bill which kills a weapon system by authorizing an additional $4.4 billion in spending on it is an amazing piece of work. And it is not just the B-2. Once again we have killed the V-22 Osprey by authorizing almost $1 billion in spending, despite the objections of the Department of Defense. We killed the F-117 by authorizing over $600 million for that program, despite the objections of the Department of Defense.

This list goes on, Mr. President. And my point is simply this: If the Department of Defense eliminated our enemies as well as the Congress eliminates unnecessary programs, we would either have surrendered or still be fighting in the Persian Gulf, in Korea, in Europe and Japan—and maybe even here at home in a desperate effort to win the Revolutionary War.

In addition, Mr. President, although I supported the latest vision of SDI—the so-called GPALS or global protection against limited strikes—I never in my most cynical moments thought that we would authorize $4.15 billion for the program. That is over $1 billion more than we authorized last year when we were still working on a concept of space based defense that had guided our research and development efforts for a decade. Now we have a new approach—a more limited, ground based system which builds on technology already in place—but instead of making a limited investment in this approach, we are throwing more money at it. That makes no sense in terms of traditional research and development strategy.

Finally, Mr. President, I would commend to my colleagues and to the country the argument advanced last night by Senator SASSER, the chairman of the Budget Committee. From his perspective as a person who looks at the overall spending of our Government—and deals with the staggering deficit that spending has produced—he rejects the approach taken in the bill because it does not reflect the priorities this Nation needs to set. Is defense spending down? Yes. Has it gone down as dramatically as the threats we face have declined? No. Is the level of defense spending appropriate given the other needs we face here at home—the need to improve our educational system, rebuild our highways and roads, make health care available and affordable, increase incentives for business development and job creation, give middle income Americans some tax relief? Absolutely not. We can not finance all of those needs through cuts in defense; after all, one of Government's most basic obligations is to "provide for the common defense." No one wants, and I would not support, a defense budget that failed to achieve that goal. But, Mr. President, this budget is excessive. We do not need it and should not support it. I vote no.

Mr. SANFORD. Mr. President, I want to commend the members of the Senate who have worked for the past 4 months to bring to the floor the conference report of the National Defense Authorization Act for fiscal year 1992-93. On August 2 of this year the Senate passed its version of the Defense authorization bill. There were world events that greatly altered the threat to our national security and those events have been factored into this legislation before us. Also factored into this legislation are our own domestic needs and the performances of our personnel and equipment during the war in the Southwest Asia.

Every State in the Union is affected by this bill in some manner. For North Carolina the legislation is of vast significance. Fort Bragg, Camp Lejune, Cherry Point Marine Corps Air Station, New River Marine Corps Air Station, Pope Air Force Base, and Seymour Johnson Air Force Base are all located in North Carolina. Twenty-five percent of the forces deployed in Operation Desert Shield and Operation Desert Storm came from these installation. This authorization conference report will provide for the beginning stages of a new medical center for Fort Bragg that would serve not only to benefit the soldiers and dependents located there, but all of the active duty military in North Carolina, surrounding States, and military retirees and their dependents.

It must be noted that the National Guard and Reserve are a vital part of the total force structure of the U.S. military. Approved in this legislation is $1.05 billion for equipment modernization for National Guard and Reserve units. The Air National Guard Unit based in Charlotte, NC, has for years maintained levels of proficiency above those of active duty units. They have done so with the oldest aircraft in the Guard. They are now scheduled to have those aircraft replaced thanks to this legislation.

Mr. President, H.R. 2100 benefits segments of the civilian population of North Carolina as well. At the beginning of the 102d Congress, the Desert Storm Personnel Benefits Task Force worked to offer emergency assistance to small businesses adversely affected by Desert Storm. As I mentioned earlier, there were tens of thousands of soldiers, sailors, airmen, and marines that left North Carolina for the Middle East. Those military personnel were also consumers and areas surrounding military bases were economically devastated during their deployments. Section 1087 serves to directly assist small business that suffered drastic losses due to the large deployments associated with the gulf war.

I wish to commend the conferees for taking note of the lack of funding made available to historically black colleges and universities that would like to either enter into or expand efforts in research programs sponsored by the Department of Defense. In addition to five predominantly black institutions of the University of North Carolina system whose chancellors advocated such action, North Carolina is home to six of the United Negro College Fund colleges and universities that would also benefit from section 812.

So much attention is given to the large ticket items of defense legislation. Most Americans are familiar with B-2 bombers, Patriot missiles, and Star Wars weapons, but the Defense authorization bill is so much more than hardware. The provisions that provide pay research funding, housing and numerous other nonhardware items so important to the infrastructure of our national security establishment are the ones that concern me most. The cold war is ended and the Congress must focus on the essentials when debating defense legislation. H.R. 2100 does just that and I give it my strong support and implore my colleagues to do so similarly.

Mr. DOLE. Mr. President, there are many important aspects to this conference report, hard won compromises on tough issues. On balance, this is a good bill that will provide for our security needs, begin the deployment of ballistic missile defenses, and continue

modernization of many aspects of our force structure.

In addition, there are several programs important to my State of Kansas. Programs that represent jobs and make major contributions to our national security. But Mr. President, I intend to vote against this conference report and I want to take just a minute to discuss my reasons.

The position taken by the conferees on the B-2 bomber is so out of line with regard to our future security needs, and so terribly wasteful with our scarce defense dollars that I cannot abide by it. Although the Senate position, which I fought hard to sustain during our deliberations on the Defense authorization bill, provided for four additional B-2 bombers, this conference report supports only one. And that single aircraft cannot be built unless the Congress votes once again to allow it. This makes no sense.

I supported amendments that ensured the B-2 completes the required testing to prove that the bomber will work as advertised. In my view, that is a prudent approach. But to buy one bomber at a time, purposefully driving up the cost so that opponents can stand in mock horror about the price tag is irresponsible—and I won't be a party to it. This report provides enough money to buy three or four B-2 bombers but it spends billions to buy nothing.

Opponents claim that the B-2 is a waste of money. I don't believe that, but I do believe that spending money on a bomber that the Congress refuses to build is a waste—a waste of taxpayers money, a waste of our technology, and a wasting away of our future security.

In my view, America needs the B-2 bomber. It is insurance for an uncertain future. And without the B-2, the bomber leg of the triad will become obsolete. So, I think we should face facts here instead of playing games with the taxpayers' money.

Mr. KERREY. Mr. President, I would like to express my opposition to the conference agreement on the fiscal year 1992 Department of Defense authorization bill.

I have decided to oppose this agreement because it does not adequately reflect changes that have taken place both in the world and in this country. The level of defense spending provided in this bill was set out in the budget agreement negotiated between Congress and the administration in October 1990. Since that agreement was fashioned, the failed coup in the Soviet Union demonstrated that the nature of the threat against which we had been preparing to defend ourselves is far different than we thought. The world looks like a much different place than when we passed the budget agreement in October 1990 or when we passed the Senate's version of the fiscal year 1992 DOD authorization in August 1991.

Other things have changed as well. CBO recently estimated the fiscal year 1992 budget deficit at $362 billion, far higher than earlier estimates of $280 billion and far in excess of the total amount we spend on domestic discretionary programs such as education, transportation, agriculture, and the environment. Moreover, the demand for additional attention to vital domestic needs grows stronger every day.

I do not advocate simply cutting defense spending and increasing social spending to meet out needs. However, I do believe we need a fundamental reassessment of our priorities to allow us to build for greatness. This is particularly true in the case of our defense and domestic needs and in the wake of the Soviet coup.

This conference agreement reflects a cold war defense. It does not provide for a restructured military that conforms to the new realities of the post-cold war world. We must reassess our needs, maintaining our military superiority on a global basis, but not arming against an enemy that no longer exists.

We must question the approval of funds for unproven weapon systems when, at the same time, 37 million Americans have no health insurance, we do not fully fund our education needs or programs like Head Start, and, of course, when the national debt is pushing $3.5 trillion.

I think it is important for us, now and in the future, to develop a consensus about what this Nation needs in the way of strategic defense, keeping in mind that true national security involves more than spending billions of dollars on SDI or determining how many bombers to build. It will involve responding to new challenges in our education, transportation, health, and nutrition programs.

I'd like to comment on two specific aspects of the conference agreement. First, I am disappointed in the $4.15 billion figure authorized for the strategic defense initiative. This figure is substantially higher than the $2.9 billion authorized in last year's budget. I have serious concerns about this system, which is intended to develop defenses against short-range and long-range missiles, including its impact on the ABM Treaty. I remain unconvinced that SDI is either technically feasible or necessary—or that we can afford it.

I was pleased to see the conference agreement include a provision barring further production on the B-2 bomber beyond the 15 previously authorized. I am also encouraged by the bill's insistence on both House and Senate approval before any future procurement funding can be applied to the building of a new plane. I believe this one measure is a step in the right direction, but it is not enough.

I do not believe we should lower our defenses, but we must modify them to address changing threats, both domestic and international. I believe this defense budget is a product of yesterday's world.

Mr. NUNN. Mr. President, this conference report includes provisions that will have a major impact on the assignment and role of women in the military services, and I want to take a few moments to summarize these important provisions.

Under current law, women are prohibited from being assigned to combat aircraft in the Air Force, and women are prohibited from being assigned to combat aircraft and combat ships in the Navy. Women are prohibited from being assigned to combat aircraft in the Army by regulation.

Both the House and Senate versions of the Defense authorization bill this year included a provision that would allow women to be assigned to combat aircraft. This provision would do so by repealing the Air Force law, and that portion of the Navy law that prohibits the assignment of women to combat aircraft. Women would still be prohibited from being assigned to combat ships under both the House and Senate provisions, except that women could be assigned to these ships as aviation officers as part of a carrier air wing or as part of an air element assigned to other ships.

This conference report includes this groundbreaking provision. Women will soon be eligible to be assigned to combat aircraft in all of the military services. I am confident that women aviators will serve well in these new assignments.

Mr. President, the Senate bill also contained a provision that would require the President to appoint a commission of 15 members to conduct a comprehensive study and make recommendations on the assignment of women in the military services. The conferees agreed to include this provision in the conference report.

The commission will look at a series of issues involving the assignment of women in the military services, including social and cultural factors in the military workplace; mental, physical and other job requirements for serving in combat positions; public attitudes in the United States regarding the service of women in the military; and the legal and policy implications of opening combat positions to women on a voluntary basis.

During the course of the commission's work, the Secretary of Defense will be authorized to temporarily waive any laws or policies that restrict the assignment of women so that women may be assigned to any skills or positions in the military services on a test basis.

The commission will make a final report to the President by November 15, 1992, and the President is required by this provision to forward the commission's report to the Congress by De-

cember 15, 1992. The President's report to the Congress will contain his recommendations on whether existing law and policies regarding the assignment of women in the military should be retained, modified or repealed; what roles women servicemembers should have in combat; what transition process is appropriate if women military members are to be given the opportunity to be assigned to combat positions; and whether special conditions and different standards should apply to women than apply to men serving in similar military positions.

The work of this commission will be very important, Mr. President. I look forward to reviewing the commission's report and the President's recommendations on this matter.

All of us are aware of the many outstanding contributions of women in our military services, most recently in the Persian Gulf conflict. Indeed, this provision was inspired in large part by the dedication, professionalism, and sacrifice of the women soldiers, sailors, marines, and airmen who served their country with such distinction during Operation Desert Shield and Desert Storm.

FAIR COMPROMISE ON TOUGH ISSUES

Mr. GORTON. Mr. President, I would like to take a few moments to discuss H.R. 2100, and the fiscal year 1992 DOD reauthorization conference bill. I applaud both committees for their diligence in putting together a fair compromise on tough issues such as the strategic defense initiative, and the B-2 bomber. Not since World War II, has Congress had to budget for our Nations' defense in a time when the world has endured such dramatic changes. As a former member of the Senate Armed Services Committee, I can appreciate the hard work required to complete this bill, particularly in these very difficult times of massive international and military reforms.

B-2

The continuation of the B-2 bomber program is one of the most contentious issues faced by Congress today. I must admit that, when I was first elected as Senator, I had serious reservations concerning the need for this aircraft. I have since come to know the importance of this aircraft to our Nation's security, and have actively supported the continuation of the B-2 program. Although this bill does not comply with the Senate's decision to procure funds for four aircraft, it does authorize funds to keep the production lines open, and allows the Secretary of Defense to reexamine the B-2 program due to recent low observability testing problems. Upon completion of this review, both Chambers will be given a second look at the program, and will hopefully vote to authorize $1 billion for the procurement of one new aircraft. I am confident that the Secretary will find the B-2 aircraft acceptable and will continue to lend his support for the program.

SDI

America deserves the protection provided by technologies such as the strategic defense initiative because of the increased threat posed by the proliferation of independent, newborn states and a concern that political instabilities found worldwide could increase the potential for ballistic missile use, including accidental and unauthorized launches.

Nobody can predict what will unfold in world events, and it is premature to cut back on strategic defenses based on the assumption that all will change smoothly. For instance, the nuclear weapons outside the Russian Republic may be returned safely, and then again they may not. The Soviet Union may dissolve peacefully, and then again it may not. Who is to say how the course of events will unfold? But until we know exactly what will transpire, we must continue to perfect our strategic defenses to protect America and its allies against an unpredictable future.

I am pleased to note that the conference report generally reflects the language of the Nunn-Warner Missile Defense Act. Under this provision, the President is encouraged to begin negotiations on amending the ABM Treaty to permit defenses at multiple sites and sets a 1996 deployment date for a ground-based system and/or when the technology is feasible. Let me add here, that I think this additional language is both reasonable and necessary to ensure that the system we develop is the best possible.

WOMEN IN COMBAT

The Persian Gulf illustrated that women are an integral part of our national defense. As we have recently witnessed, the military duties that women perform can put them in areas of considerable danger. They have also proven themselves to be capable pilots; women have flown successful reconnaissance and refueling missions in Grenada, Panama, and the Persian Gulf. This bill will allow women to fly in combat aircraft with the stipulation that the Secretary from each military department may prescribe the conditions under which women may be assigned to aircraft engaged in combat.

Women have been flying military aircraft for over 20 years, and have proven themselves to be skillful pilots. This legislation opens a window of opportunity for women who have chosen to make military aviation a career.

There is, however, a significant amount of information to evaluate before we lift combat restrictions across the board. I support the provision directing the President to set up a commission to study the effects of women in military combat.

801 HOUSING: NAVAL AIR STATION WHIDBEY ISLAND

I would also like to take this opportunity to discuss a particular problem facing Naval Air Station Whidbey Island. This year, I amended the Senate DOD authorization bill to include NAS Whidbey on the list of bases to receive long-term leases for the construction of military housing. This particular provision remains in the conference bill and I would thank my colleagues on the committee for their support of the 801 program. I would also like to add that I am deeply committed to this project, and will continue to work with the Navy to ensure the construction of housing at Naval Air Station Whidbey in the very near future.

DEFENSE WASTE PRIVATIZATION

The Senate version of the authorization bill contained a provision based upon S. 1030, a bill that I introduced earlier this year. This provision would have expanded the Department of Energy's authority to enter into contracts with private industry for the cleanup of defense wastes. Such authority would enable DOE to bring the competitive spirit of the private sector to bear on cleanup of DOE waste sites, and would allow DOE to allocate its resources more efficiently. Increased privatization would also attract new commercial entities to communities near DOE sites, adding to the diversity of their economies.

Unfortunately, the privatization provision was dropped in conference. Although the conferees stated their support for increased privatization, there were a number of technical issues that they could not resolve. I look forward to working with my colleagues on these issues next year, and hope that together we can pass a privatization bill.

SMES

The conference agreement increases the authorization for the Superconducting Magnetic Energy Storage [SMES] Program to $20 million, and directs the obligation of $10 million in unobligated fiscal year 1991 funds. I am pleased that the conferees recognized the many benefits that could result from the successful operation of a full-scale SMES test model.

Partly because of its potential applications in the defense sector, SMES has been placed on the critical technologies list by the Department of Defense. But SMES also shows great promise as a means to increase the flexibility of the U.S. electrical distribution system. In my own State, SMES could solve peak loading problems in the Puget Sound area, and could help protect endangered and threatened stocks of salmon. For this reason, the conference agreement directs the Department of Defense to work with the Department of Energy in developing the SMES Program. I encourage the Department of Energy to be a willing and creative partner in this endeavor.

YAKIMA FIRING CENTER

Briefly, I would like to thank the members of the committee for their

support in funding the expansion of the Yakima Firing Center. I feel that the compromise reached on the expansion accommodates all affected parties, and that the amount allotted for the project, although lower than the budget request, is both reasonable and fair.

Mr. President, I have a strong commitment to the above items, and would again like to commend the Armed Service Committee for its work in completing a very difficult and complex bill.

ARMOR COMBAT TANK BADGE

Mr. MCCONNELL. Mr. President, although I will vote for final passage of the conference report accompanying H.R. 2100, the National Defense Authorization Act for fiscal year 1992 and 1993, I want to take a moment to speak on a provision which was deleted from the Senate's bill in conference.

In early August, I offered an amendment to the DOD bill requiring the Secretary of the Army to report on the feasibility of establishing an armor combat tank badge. I had hoped that through such a report, additional information and support for this badge could be gleaned.

Our armor soldiers are a unique breed of warrior, capable of rapidly engaging enemy forces throughout a theater of combat. If there is a ready lesson from Operation Desert Storm, it is that our armor forces are vital on tomorrow's battlefields.

Mr. President, I'd like to conclude my remarks by personally thanking the many supporters of my amendment. I'd like to single out the council of Armored Division Associations in Louisville and its chairman, Edward Reed.

Mr. BAUCUS. Mr. President, I rise in support of the National Defense Authorization Act covering fiscal year 1992–93.

This bill is far from perfect. I believe that in several regards, our defense policy remains bound by a cold war mindset. The effect of this mindset is not benign. Preoccupation with yesterday's war keeps us from focusing on the important struggles of today and tomorrow.

But we have taken a step in the right direction. In my view, key elements of this bill include the maintenance of a core nuclear deterrent; significant cuts in certain cold war era weapons; and the provision for a missile defense system to counter terrorist, accidental or rogue firings.

CORE NUCLEAR DETERRENT

Since World War II, international peace has rested upon the balance of nuclear terror. Fundamental change in the Soviet Union has changed forever the face of international security. Nevertheless, the world is in many ways more unstable today than at the height of the cold war. America continues to need a core nuclear deterrent.

One of the front line facilities in the maintenance of this deterrent is Malmstrom Air Force Base in my home State of Montana. In accordance with the START Treaty, Malmstrom is in the process of deactivating its Minuteman II missiles. These will be replaced by more modern Minuteman III's. I was extremely concerned at the potential effects of an amendment to the defense authorization bill that could have impeded the shift to Minuteman III's. Fortunately, clarifying language has been added to the conference report to insure that Malmstrom's modernization efforts will not be delayed.

SIGNIFICANT CUTS

I believe that our country continues to spend too much on defense. In a time of a diminished Soviet threat abroad and a budgetary crisis at home, we need to carefully marry our national security decisions to the nature of the threats we face.

We need defenses structured to address major regional conflicts such as the recent gulf war. This bill gives strong support to the weapons that were most important in winning the gulf war. We also need to realize that the most significant struggle facing America today is economic—a commercial battle with the Japanese and Europeans. In this arena, I strongly support the Defense Advanced Research Projects Agency's efforts to foster cooperation between the Government and private sector research organs. More programs like DARPA are needed.

We do not need weapons designed uniquely for a total war scenario with the Soviet Union. For many years, I have opposed the production of the B–2 bomber. This plane was designed for a scenario of total nuclear war. Despite the feeble repackaging effort of its proponents, the B–2 has no conventional mission not already covered by existing weapons systems—especially at the staggering cost of $860 million a copy. I would liked to have seen the B–2 eliminated altogether. At the very least, I hope the minimal funding for the plane signals its deathknell.

STRATEGIC DEFENSE

Strategic defense represents another area where this bill makes important progress, but continues to suffer from a cold war mindset.

I support the deployment of a limited, ground-based missile defense system. Instability in the Soviet Union has raised serious questions about the security of the Soviet's far-flung nuclear arsenal. Moreover, the Scud missiles of the gulf war provided a graphic demonstration of the danger of Third World missiles. We also learned that we know frighteningly little about the nuclear and missile capabilities of our adversaries. In recent weeks, North Korea and Iran have been added to the list of countries whose advanced nuclear efforts have taken the United States by surprise.

A ground-based antimissile system offers the hope of protecting the United States from an accidental, terrorist, or rogue missile attack. In my view, such a system matches the nature of the dangers Americans now face. It is a prudent insurance policy against our most likely threats.

In contrast to the prudence of a ground-based system, I am disappointed to see continuing funding for a space-based antimissile system. There is an overwhelming consensus among scientists that a space-based star wars system would not work. Unlike a modest ground-based system, a space-based system would cost hundreds of billions of dollars. It is ironic that while we spend millions to research Brilliant Pebbles, the Japanese pump money into research supportive of commercial enterprise.

CONCLUSION

We hear a lot of talk about entering a new era of international relations. I think we all realize that the world we have known for 40 years has changed forever.

Unfortunately, there often seems to be a lag time between realization and action. Too many of the programs we debate in Congress remain frozen by old mindsets. This is true not only in defense—but also in competitiveness, trade, health care, and education.

The defense authorization bill is far from perfect. The ghosts of the cold war remain apparent in weapons systems like the B–2 and Brilliant Pebbles.

But in sum, this bill is a significant step in the right direction.

Mr. PELL. Mr. President, it was with considerable misgivings that I cast my vote today for the fiscal year 1992 DOD authorization conference report.

On the one hand, I am very pleased that the conferees in their wisdom curtailed the B–2 Bomber Program, and I am especially glad that authorization has been provided for the third *Seawolf* submarine, a stabilizing weapons system that will serve our security needs well into the 21st century and the production of which is of great consequence to the economy of southern New England.

I can also see the possible wisdom of redirecting the SDI Program to provide for a limited antiballistic-missile system to deal with isolated accidental or deliberate launches. But it seems to me we should continue to examine this program at every step to make sure that it responds to a real threat and not to an illusory one. I regret that the limited program we are authorizing this year results in an increase in SDI funding.

I am especially concerned that future developments in this area do not lead to hasty or ill-considered revisions of the ABM Treaty. We need to be absolutely sure about the nature of the threat we face and the value of the proposed defense system before we take any steps to modify the treaty.

It is regrettable that circumstances required the withdrawal of the proposal of Senator NUNN and Congressman ASPIN to authorize use of up to $1 billion for humanitarian assistance to the Soviet Union and to promote conversion of the Soviet military industrial base. These are objectives which are certainly in our own national interest and hopefully they will be pursued in other contexts as circumstances allow.

But it is the bottom line figures of the conference report which cause my gravest misgivings. It seems beyond belief to me that this bill authorizes an amount which is actually $2 billion above the amount authorized for the current fiscal year. In the intervening time, the major threats to our national security have virtually evaporated, with the reduction of conventional forces in Europe and the withdrawal of tactical nuclear weapons. Yet we are now increasing our defense spending authority at the very time needs would appear to be decreasing.

Mr. President, the long debilitating struggle of the cold war was conducted at enormous cost and yielded no real victors but only improverished combatants. The Soviet Union is in shambles. And the United States, having spend some $12 trillions on defense over the 45-year period, now staggers under a national debt of over $3 trillion and a current deficit on the order of $300 billion.

Now we have an opportunity to stop this drain on our resources. The cold war is over and the threat has disappeared. There is no need to continue funding old solutions to old problems. I hope and urge that future DOD authorization bills will more accurately reflect the reality of our times.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to vote on adoption of the conference report to accompany H.R. 2100.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Conference report on H.R. 2100, an act to authorize appropriations for fiscal years 1992 and 1993 for military activities for the Department of Defense, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—79

Adams	Fowler	Mitchell
Akaka	Garn	Moynihan
Baucus	Glenn	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bingaman	Graham	Packwood
Bond	Gramm	Pell
Boren	Grassley	Reid
Breaux	Hatch	Robb
Brown	Heflin	Rockefeller
Bryan	Helms	Rudman
Bumpers	Hollings	Sanford
Burdick	Inouye	Sarbanes
Burns	Jeffords	Seymour
Byrd	Johnston	Shelby
Chafee	Kassebaum	Simpson
Coats	Kasten	Smith
Cochran	Kennedy	Specter
Cohen	Kerry	Stevens
Conrad	Lautenberg	Symms
Craig	Lieberman	Thurmond
D'Amato	Lott	Wallop
Danforth	Lugar	Warner
Dodd	Mack	Wirth
Domenici	McCain	Wofford
Durenberger	McConnell	
Ford	Mikulski	

NAYS—15

Daschle	Leahy	Riegle
DeConcini	Levin	Roth
Dole	Metzenbaum	Sasser
Hatfield	Pressler	Simon
Kohl	Pryor	Wellstone

NOT VOTING—6

Bradley	Dixon	Harkin
Cranston	Exon	Kerrey

So the conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 157, which the clerk will state by title.

The assistant legislative read as follows:

A joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991; and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Appropriations, with an amendment to strike all after the resolving clause and inserting in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense, the Department of Veterans Affairs, and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm) and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act, not to exceed $3,814,100,000 may be transferred during fiscal year 1992 from either the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund, to the following accounts in not to exceed the following amounts:

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $227,300,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $270,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $75,000,000.

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $270,800,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $21,800,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $80,500,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $508,000,000, to remain available for obligation until September 30, 1994.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", $8,100,000, to remain available for obligation until September 30, 1994.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $112,700,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $4,300,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $309,500,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $460,000,000, of which $100,000,000 may be available for the procurement of combined effects munitions, to remain available for obligation until September 30, 1994.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $76,900,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

(TRANSFER OF FUNDS)

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $47,800,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $6,100,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $24,300,000, to remain available for obligation until September 30, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $28,100,000, to remain available for obligation until September 30, 1993.

REVOLVING AND MANAGEMENT FUNDS

(TRANSFER OF FUNDS)

ARMY STOCK FUND

For an additional amount for "Army Stock Fund", $410,000,000.

NAVY STOCK FUND

For an additional amount for "Navy Stock Fund", $450,000,000.

AIR FORCE STOCK FUND

For an additional amount for "Air Force Stock Fund", $280,000,000.

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $17,900,000.

DEPARTMENT OF VETERANS AFFAIRS

(TRANSFER OF FUNDS)

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For a Department of Veterans Affairs program of marriage and family counseling services for veterans of the Persian Gulf War and the spouses and families of such veterans: $10,000,000: Provided, That an Act authorizing the program is enacted during the One Hundred Second Congress.

DEPARTMENT OF DEFENSE—MILITARY

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred pursuant to the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991" (Public Law 102-28) and under the terms and conditions of that Act, during the fiscal year 1992, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Act in amounts not to exceed $6,282,400,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal year 1992: Provided, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

To be derived by transfer, $685,000,000 for "Military personnel, Army".

MILITARY PERSONNEL, NAVY

To be derived by transfer, $70,000,000 for "Military personnel, Navy".

MILITARY PERSONNEL, MARINE CORPS

To be derived by transfer, $18,000,000 for "Military personnel, Marine Corps".

MILITARY PERSONNEL, AIR FORCE

To be derived by transfer, $81,000,000 for "Military personnel, Air Force".

RESERVE PERSONNEL, ARMY

To be derived by transfer, $80,000,000 for "Reserve personnel, Army".

RESERVE PERSONNEL, AIR FORCE

To be derived by transfer, $4,000,000 for "Reserve personnel, Air Force".

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $10,000,000 for "National Guard personnel, Army".

NATIONAL GUARD PERSONNEL, AIR FORCE

To be derived by transfer, $3,000,000 for "National Guard personnel, Air Force".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $2,717,500,000 for "Operation and maintenance, Army".

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $1,080,000,000 for "Operation and maintenance, Navy".

OPERATION AND MAINTENANCE, MARINE CORPS

To be derived by transfer, $165,000,000 for "Operation and maintenance, Marine Corps".

OPERATION AND MAINTENANCE, AIR FORCE

To be derived by transfer, $1,241,400,000 for "Operation and maintenance, Air Force".

OPERATION AND MAINTENANCE, ARMY RESERVE

To be derived by transfer, $6,000,000 for "Operation and maintenance, Army Reserve".

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

To be derived by transfer, $59,200,000 for "Operation and maintenance, Air Force Reserve".

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

To be derived by transfer, $3,600,000 for "Operation and maintenance, Army National Guard".

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

To be derived by transfer, $58,700,000 for "Operation and maintenance, Air National Guard".

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The prohibition in section 132(a)(2) of Public Law 101-189 (103 Stat. 1383) does not apply to the obligation of $70,200,000 provided in "Aircraft Procurement, Army" of chapter I, title I for the procurement of AH-64 Apache attack helicopters.

SEC. 102. Of the funds provided in title III of Public Law 101-165 for "Other Procurement, Air Force", not more than $80,000,000 shall be available, and may be obligated and expended, for costs arising from the cancellation of the Alaskan OTH-B radar program and powerplant lease: Provided, That such funds will be available for contract termination, site restoration, modification of facilities and other costs associated with the termination of the Alaskan OTH-B radar program and powerplant lease, or the transfer and modification of facilities and material located at or procured for the Alaskan OTH-B radar program or powerplant to any other Department of Defense activity or program at the OTH-B radar powerplant site.

KURDISH PROTECTION FORCE

(TRANSFER OF FUNDS)

SEC. 103. In addition to other transfer authority granted by this or any other Act, and under the terms and conditions of the "Operation Desert Shield/Desert Storm Supplemental Act, 1991" (Public Law 101-28), the Secretary of Defense may transfer not to exceed $100,000,000 for costs incurred during fiscal years 1991 and 1992 from the Defense Cooperation Account, or as appropriate, the Persian Gulf Regional Defense Fund to appropriate Department of Defense appropriations for costs incurred through February 1992 in support of U.S. military forces in and around Iraq and Turkey known as the Kurdish Protection or Ready Reaction Force.

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any current or future sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any current or future sale" means any sale with respect to which the President was required to have submitted, or will be required to submit, a numbered certification to the Congress pursuant to the Arms Export Control Act on or after August 2, 1990.

MIDDLE EAST HUMANITARIAN RELIEF

SEC. 105. Of the funds appropriated from the Defense Cooperation Account for the Kurdish Ready Reaction Force not less than $15,000,000 shall be made available only for the prepositioning of relief supplies in the Middle East to meet emergency humanitarian needs and related transportation costs. In addition, the Secretary of Defense is authorized to use up to $15,000,000 in additional funds from the Defense Cooperation Account for this purpose.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

ADMINISTRATIVE PROVISION

Section 518(a) of the "General Provisions" in H.R. 2519, the Departments of Veterans Affairs

and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, is amended by striking out "Section 662A(c)" and inserting in lieu thereof "Section 1722A(c)".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ADMINISTRATIVE PROVISION

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (H.R. 2519), is amended—

(1) in the appropriating paragraph entitled "Personal Services and Travel, Office of Public and Indian Housing" by striking "$10,424,000" and inserting in lieu thereof "$12,788,000" each time it appears in the paragraph;

(2) in the appropriating paragraph entitled "Personal Services and Travel, Office of Policy Development and Research" by striking "$10,705,000" and inserting in lieu thereof "$8,717,000" each time it appears in the paragraph; and

(3) in the appropriating paragraph entitled "Personal Services and Travel, Office of General Counsel" by striking "$14,985,000" and inserting in lieu thereof "$14,609,000" each time it appears in the paragraph.

INDEPENDENT AGENCIES

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

Of the funds made available under this head in Public Law 102-139, not to exceed $950,000, to remain available until September 30, 1993, shall be available for the purpose of providing financial assistance (through grant or contract made, to the maximum extent feasible, not later than 150 days after enactment of this Act) to facilitate the furnishing of legal and other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons: Provided, That such grants or contracts shall be made by the Legal Services Corporation pursuant to a reimbursable payment from the United States Court of Veterans Appeals for the purposes described herein: Provided further, That the Legal Services Corporation is authorized to receive a reimbursable payment from the United States Court of Veterans Appeals for the purpose of providing the financial assistance described herein: Provided further, That no funds made available herein shall be used for the payment of attorney fees: Provided further, That, not later than 180 days after the enactment of this Act, and, again, not later than one year after a grant or contract is made pursuant to the provisions of this paragraph, the Legal Services Corporation and the United States Court of Veterans Appeals shall report to the appropriate committees of the Congress regarding the implementation of the provisions of this paragraph.

ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE PROVISION

Of the funds appropriated for the wastewater treatment facilities fund under title VI of the Federal Water Pollution Control Act, up to one-half of one per centum may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $943,000,000, to remain available until expended, for necessary expenses under such Act: Provided, That up to $1,250,000 of the funds made available under this heading may be transferred to, and merged with, amounts made available under the heading "Federal Emergency Management Agency, Salaries and expenses" in the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), is hereby deleted.

CHAPTER III

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

In view of the occurrence of recent natural disasters—similar to the volcano eruption of 1980, the earthquake of 1989, and the hurricane of 1989—droughts, floods, freezes, tornadoes, and other catastrophes which resulted in billions of dollars in damages, and in an effort to restore the economy and to alleviate the effects of the disasters, an additional $1,750,000,000, to remain available until expended, is hereby made available for losses associated with 1990 crops as authorized by law, and for losses associated with 1991 crops under the same terms and conditions.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food and Rural Resources for potato disease detection, control, prevention, eradication and related activities including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine and any unobligated balances of funds previously appropriated or earmarked for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Millions of acres of land have been damaged by natural disasters, seriously affecting the local economy of much of the Nation. To respond to the effects of recent droughts, floods, freezes, tornadoes, and other catastrophes, an additional $28,000,000, to remain available until expended, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the Special Supplemental Food Program for Women, Infants and Children, $100,000,000.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to meet dire emergency needs resulting from devastating flooding in the lower Mississippi Valley, $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $15,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $10,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

Of the amount appropriated under this heading in the Energy and Water Development Appropriations Act, 1992 (Public Law 102-104), up to $5,440,000 shall be available for Buffalo Bill Dam Modification, Wyoming, as proposed in the United States Department of the Interior Budget Justifications, Fiscal Year 1992, for the Bureau of Reclamation.

CHAPTER V

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $5,600,000, to be derived by transfer from unobligated balances of Board for International Broadcasting, "Israel Relay Station", to be available for the costs of the participation of the United States in the 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.

CHAPTER VI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Childhood Immunization Program, $90,000,000.

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $1,200,000,000: Provided, That this amount shall not be subject to sections 640(a)(2)(C), 637(5)(B) and 640(a)(3)(A) of that Act.

TITLE II—GENERAL PROVISIONS

SEC. 200. CONGRESSIONAL DESIGNATION OF EMERGENCY.—Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution are available for obligation only for costs of Desert Shield/Desert Storm or to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 203. CONSTRUCTION OF MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA.—The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189), the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510) and the Military Construction Authorization Act for Fiscal Years 1992 and 1993 and as provided for in the Military Construction Appropriations Act, 1991 (Public Law 101-519) (and the Military Construction Appropriations Act 1992 (Public Law 102-136)).

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, House Joint Resolution 157, making dire emergency supplemental appropriations for fiscal year 1992, provides appropriations totaling $7,965,100,000. Of this amount, $3,814,100,000 is for additional Desert Shield/Desert Storm costs and will be derived from the defense cooperation account. By definition, under the Budget Enforcement Act, these appropriations for Desert Shield/Desert Storm are deemed to be emergencies and, therefore, do not require offsets.

For domestic emergencies, the resolution contains appropriations for the Disaster Assistance Program of the Federal Emergency Management Agency [FEMA] totaling $943 million. For 1990 and 1991 crop losses, the resolution contains $1.75 billion; for the Soil Conservation Service, the resolution contains $28 million for watershed protection and facility repair; and for the Corps of Engineers, the resolution contains $40 million for flood repairs.

Finally, the resolution contains an additional $1.2 billion for Head Start, $100 million for the Women, Infants, and Children [WIC] Program, and $90 million for childhood immunization. These amounts were included in the House-passed bill by a floor amendment on a rollcall vote of 243 to 180. These appropriations do not meet the definition of emergencies as contemplated in the Budget Enforcement Act.

The committee has included them in order, hopefully, to expedite Senate and conference action on this dire emergency supplemental.

I cannot support them as emergency items, however.

Mr. President, the resolution also contains a congressional designation that all funds provided in the resolution are deemed emergencies under the Budget Enforcement Act. This language is identical to the House-passed provision. However, a congressional designation alone is not sufficient to avoid a sequester under the Budget Enforcement Act. Therefore, the House-passed bill, if enacted into law, would cause a sequester on all domestic discretionary appropriations for fiscal year 1992 of approximately 2.7 percent across-the-board. In order to prevent this possibility, the committee has included a provision which provides that the funds in this act may be obligated only to the extent and only in the amounts designated as emergencies by the President not later than the date of enactment of this act.

Let me point out that prior to last year's summit agreement, appropriations for emergencies had to be paid for within our discretionary caps. The outlays from appropriations for Hurricane Hugo and Loma Prieta, for example, have to be accommodated within our outlay caps as the bills come due.

It was my position at the summit that the Appropriations Committees should be held harmless for factors or events beyond our control, which is something new. As I have already indicated, the outlays for appropriations for such disasters as Hurricane Hugo and Loma Prieta have had to be accommodated within our outlay caps as the bills come due but not so under the budget agreement.

Such factors for which the appropriations for our domestic discretionary are to be held harmless included faulty economic and technical assumptions on interest rates, inflation, unemployment, and so forth.

We were successful in having these hold harmless provisions included in the summit agreement, which are now incorporated into the Budget Enforcement Act of 1990.

The Budget Enforcement Act also provides for an exemption from the budget authority and outlay caps, spending that is designated as "emergency requirements" by both the President and Congress. Senators should keep in mind that, prior to the Budget Enforcement Act, emergency spending was not exempt from the discretionary caps. So we negotiated with the administration the provision which holds us harmless for emergency spending if both the President and Congress agree to designate appropriations as such.

At this point, the administration has only agreed to declare $151 million of the FEMA appropriation as emergency spending. The balance of FEMA funding, $792 million, has not been declared an emergency by the administration. Instead, the administration takes the position that Congress cut the FEMA budget over the last 4 years and, therefore, should now have to provide offsets for $792 million of the FEMA appropriation. This position by the administration is, in my judgment, totally unfounded. Between 1985 and 1991, the executive branch requested $1.509 billion in appropriations for FEMA's disaster relief fund.

During that same period, Congress appropriated $3.142 billion. Furthermore, Congress' decision not to provide funds for fiscal year 1991 was based on information provided by FEMA that there were large amounts of money available from prior years' appropriations to meet 1991 disaster declarations.

So, it is not the fault of Congress that FEMA needs these additional appropriations in order to fund the Presidentially declared disasters that have occurred in 1991. The historical average is 24 disasters per year; for 1991, there have been 38 disasters declared by the President—14 more than an average year.

The administration has also refused to declare as emergency spending any of the $1.75 billion contained in the resolution for disaster crop loss assistance for 1990 and 1991. Yet, for 1990 generally, spring freezes reduced fruit yields in the East and heavy rains resulted in crop and property losses in Texas, Arkansas, and Louisiana. Late summer drought reduced peanut, corn, and soybean yields throughout the Southeast. North Dakota had its driest winter this century.

In 1991, several regions of the country, including the West, Midwest, Southern and Northern Plains have suffered drought. Heavy spring rains flooded Mississippi, Louisiana, Iowa, and Minnesota, delaying or preventing the planting of crops. Freezing temperatures in the Northwest decimated fruit and other crops; and, Hurricane Bob wreaked havoc in the Northeast.

As of October 28, 1991, a total of 1,392 counties have been designated either by the President or the Secretary of Agriculture for crop losses resulting from disasters occurring in 1991. This figure compares with 1,973 counties designated for crop losses resulting from disasters occurring in 1990; 44 of the 50 States are included in these designations. Of the remaining six States, five have disaster declarations pending. The magnitude of these figures demonstrate the widespread nature of disasters suffered by the farmers of this Nation over the last 2 years.

I urge the administration to work with us in conference on this resolution so that we can provide these disaster assistance funds to the American people who have suffered devastating losses caused by natural disasters. It is time that we wake up and pay at least as much attention to the problems facing Americans because of disasters be-

yond their control as has been paid to the problems of other nations.

Mr. President, this resolution contains an additional $3.8 billion to cover the costs of Operation Desert Shield/Desert Storm. The money is to be transferred from the defense cooperation account, made up of contributions from our allies. This will bring the total appropriated from that account to $48.3 billion. The problem is that we have received only $45.3 billion into the account leaving a shortfall of $3 billion.

I think the American public will be stunned to learn that two countries still owe us $3.25 billion, and that those two countries are Saudi Arabia and Kuwait, the countries that we, together with our British allies and other allies, saved from extinction. I encourage the leaders, I urge the leaders, in Saudi Arabia and Kuwait to think back to August of 1990. The United States did not hesitate then. The United States took swift, incisive action to stop the aggression of Saddam Hussein. Our country's military might and the blood of our citizens were committed to defend Kuwait and Saudi Arabia, and we expect them to honor their commitments to help us to shoulder the financial costs of that effort on their behalf, in the main.

Some may be concerned that after all of the pledges are finally collected the United States will come out with some kind of profit. I want to make it clear that this is not the case. The administration estimates the total cost of the war will be about $61 billion. Pledges, both cash and in-kind will offset almost $54 billion leaving the American taxpayer with a bill for approximately $7 billion. We are not asking for a handout from Saudi Arabia and Kuwait. We sent our men and women to their countries to save them from Saddam's brutal attack and now we want those countries to live up to their promises, made when they were desperately in need of, and when they desperately wanted, our help.

Section 104 of this resolution prohibits arms sales to Saudi Arabia and Kuwait until they completely fulfill their pledges. It is similar to section 109 of the first Desert Shield supplemental which was included because of concern that the United States, having borne the majority of the burden for the military operation in the gulf, would be saddled with picking up the tab for the financial costs as well. I and many of my colleagues feared that the mercifully quick end of the war would cause some of the contributors to rethink and to renege on their pledges.

Unfortunately the language in section 109 was not explicit enough. Now, more than 7 months after the end of the war, we discover that our fears are being realized. The payments have not been swift. Debts to the U.S. taxpayer seem to take a back seat to the hunger for new military equipment. This provision will reverse that order and make sure that these pledges are fulfilled before future arms sales can go ahead.

I understand that Senator KENNEDY will offer an amendment which I support, that will delay implementation of this provision for 120 days. This change will allow Saudi Arabia and Kuwait ample time, at their current rate of payment, to completely fulfill their pledges before the sanctions take effect. More importantly, Senator KENNEDY'S amendment will allow the continuation of existing contracts and, thereby, prevent the layoffs of employees of U.S. companies currently doing business with those countries.

Mr. President, before I yield the floor, I thank my distinguished colleague, the ranking member on the Republican side of the aisle, Senator HATFIELD, for his support, his cooperation, his helpfulness, his advice. As the ranking member of the committee, he always stands shoulder to shoulder with the chairman as we take up the various appropriation bills throughout the year. And this instance has been no exception.

He is a ready fellow soldier in the trenches, always there in time of trouble and always with the kind of encouragement that is often needed. I thank him and I thank all the members of the Appropriations Committee on both sides of the aisle, and I thank our diligent and effective and capable staff. Later, I will supply for the RECORD the names of staff persons on both sides of the aisle.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oregon.

Mr. HATFIELD. Mr. President, here we are, just 8 weeks into the fiscal year, with two regular fiscal year 1992 appropriations bills not yet signed into law, and we are considering a supplemental. This is an extraordinary situation that requires some attempt at explanation.

The bulk of the funding recommended in House Joint Resolution 157, more than $10 billion, is for the costs of Operation Desert Shield/Desert Storm, and was requested by the President last summer as a fiscal year 1991 supplemental. These funds are exempt from the discretionary caps of the budget agreement. An additional $693,000,000 fiscal year 1991 supplemental was requested at the end of June for disaster relief programs under FEMA. The President designated $151,000,000 of that amount as an emergency under the terms of the budget agreement, and recommended an offset for the balance.

The President's request languished in the other body throughout last summer. As the end of fiscal year 1991 approached discussions were held with the administration to reach compromise on a supplemental measure providing the funding requested by the President plus additional amounts for agriculture disaster relief, offset by reductions in other programs. Unfortunately, no action was taken, and the available offsets expired along with the fiscal year.

At the end of last month, the House finally took action on the supplemental, which by that time had become a fiscal year 1992 measure. The House committee reported H.R. 3543 with funding for Desert Shield/Desert Storm, FEMA, agriculture disaster relief, and a few other items. During consideration on the House floor, amendments were adopted adding $1.2 billion for Head Start, $100 million for WIC, and $90 million for child immunization programs. No offsets for these additional amounts were offered, since the bill included language declaring all funds in the bill to be emergencies under the budget agreement, and that sufficed for consideration in the House.

The budget agreement, however, stipulates that both Congress and the President must agree on emergency funding in order for that funding to be exempt from the discretionary caps of the agreement. Were the House measure to be signed by the President a sequester of approximately 2.7 percent would fall on nondefense domestic programs.

Faced with this prospect, the committee elected to take a different approach recommended by Chairman BYRD. We took up House Joint Resolution 157, a technical corrections measure which had been referred to the committee early this year, and amended it with most of the provisions of H.R. 3543. Thus all those matters, in addition to whatever may be added here on the Senate floor, will be subject to negotiation in conference. That will give us the opportunity to reach an agreement acceptable to both Houses and the administration.

In addition, the committee has included a provision stipulating that none of the funds provided are to be made available except to the extent they are designated by the President to be for emergency, the funds can be expended without triggering a sequester. Funds that are not so designated will lapse. In other words, the President can pick and choose what he wants to spend.

This is an extraordinary procedure, Mr. President, with ramifications that we may not fully appreciate. We may regret it, or come to see it as just another useful device in the budgetary games we play.

In any event, Mr. President, I join with the chairman in asking for prompt consideration of this measure so we can get on to conference and be done with it.

Mr. President, the chairman of the committee, Senator BYRD, has very

eloquently and in great detail outlined the provisions of this supplemental appropriation. I am sure that Members who have read the bill as presented will be made aware of the provision to which Senator BYRD has referred, and that is the fact that we used House Journal Resolution 157, a bill for technical corrections, as the vehicle for this supplemental.

I only underscore that for one purpose, and that is to indicate, again, the great difficulty under which the Appropriations Committee had to deal with this matter. And I believe that this is, again, one of those extraordinary examples of how Senator BYRD, by his great knowledge of the Senate rules, procedures, and the history of the Congress, was able to take a most difficult task and resolve it through what might appear to be a very simple procedure—and yet a very profound one.

We have honored the custom of House-originated appropriations bills. By the same token, we are not dealing with the House-passed supplemental appropriations bill, H.R. 3543. So I am sure when the history of this Congress is written, there will probably be a footnote given to this particular procedure today and again demonstrating how at the same time we were able to move through the traditional procedures to reach the resolution of this issue.

I command Senator BYRD for that genius. It is a pleasure to work with my colleague from West Virginia. And I also want to indicate my pleasure in the work of the staff. We have a very harmonious staff on our Appropriations Committee, and I think that is one mark of its professionalism. It is a very professional staff.

Chairman BYRD and I, as the ranking member, I am sure, do express our appreciation from time to time, but perhaps not enough.

So we have this before us, Mr. President. I am not here to represent the perspective of the White House, necessarily, on this bill. But I think we ought to expedite it. I do not think there is any great pressure from the White House for this bill.

The House of Representatives placed a great deal more in the appropriations supplemental that they passed which we, in turn, have incorporated in this vehicle. And that represents another very important part of this procedure today, and that is we have recognized a certain political reality as far as returning some of those nonemergency programs—and yet very important programs—that the House added—women and infant children.

Mr. BYRD. We did not delete them. We did not delete them.

Mr. HATFIELD. We could have proposed a deletion, but we knew the practical politics, so we did not. By the same token, we did not want to put these other programs that are truly emergency into jeopardy. So there is this provision that Senator BYRD devised in accordance with the budget agreement, on the matter of the role of the President in being able to obligate these funds by declaring an emergency.

In our discussions in the committee, there were those who raised the question as to whether or not this was a form of a line item veto. There are no two people in this Senate who more avidly, and with a certain amount of pleasure, have united to fight line item veto proposals on this floor than Senator BYRD and I.

I want to make it very clear, Mr. President, that this is not a line item veto, and I do not think the White House, or anyone else who supports line item vetoes, should take any reading of this provision as a breakthrough from their perspective. I just want to make record on that, as the chairman did in the committee session, as the issue was raised in the committee.

Mr. BYRD. Mr. President, will the Senator yield on that point?

Mr. HATFIELD. I will be very happy to yield.

Mr. BYRD. I thank him for making this matter clear, anent the line item veto. At such time as that is ever brought up on this floor, it is my hope that I can surpass STROM THURMOND'S record for having held the floor the longest. At that time I promise the Senator I will be prepared to talk at great length—hours. At that time I will recite all of the English monarchs, beginning with Cerdic in 519, and all the way down to Elizabeth II in our time. I will give the period of each reign, for example Cerdic from 519 to 534. I will go through all that.

But, before I do that, I will give the reigns of all the Roman emperors, beginning with Augustus in 27 B.C., down to the fall of Rome in 476 A.D.

I will likewise give the years during which they reigned. There will be 88 of the Roman monarchs and 78 of the English monarchs.

And then I will speak of the Persian monarchs and give the time of their reign, from Cyrus the Great, down to the time of Alexander the Great.

And then I will relate all of the American Presidents and give their reigns, and I will not have any notes. I will just do it all. I will take my time and do it all.

Then I will name all of the books of the Bible, 66 books of the Bible. And I will be prepared to go on from there and do other things of likewise extraordinary nature.

Mr. HATFIELD. Shakespeare.

Mr. BYRD. So, when the time comes to fight the line item veto, or the enhance rescissions, which, the enhanced rescission, is much, much worse than the line item veto—to the magnitude of perhaps 100 times or more—my friend and I will be happy to entertain those who wish to talk about the line item veto. And we will make a record on that which, hopefully, the courts will one day take a look at if need be.

I thank my friend for yielding. I am prepared now, if someone, wishes, to start now.

Mr. HATFIELD. Mr. President, as much a history buff as I am, I hope we do not force our chairman into the activity, that historic review.

I would also say to the chairman, he cited Senator THURMOND as having held this floor the longest period of time. He is prepared to exceed that record. I would say the second longest holder of this floor was the late Senator from Oregon, Wayne Morris. And I would join the Senator from West Virginia by saying I am prepared to exceed Wayne Morris' record, if necessary, as well.

Mr. LEAHY. If the Senator would just yield for a commentary, the distinguished chairman and ranking member, also former chairman of the committee, knows the Senator from Vermont totally opposes the idea of line item veto. It would render the Congress virtually a secondary, almost historical accident in the system of Government. It would certainly go further than any other step possible to remove us as one of the three equal branches of Government.

It would be as if we totally stripped the courts of their jurisdiction. A line-item veto would not only remove the Congress from anything even approaching an equal branch of Government, but it also would be the worst possible way of doing this, because we would have done it ourselves.

Having said that, if the Leahy family were not planning to be home for Thanksgiving I would be almost inclined to introduce such an amendment just to hear the history lesson by the distinguished chairman. But before the distinguished chairman prepares to do that, let me assure him that perhaps it might be better if I were to join him in his office; maybe we could have a cigar together and he could give me that history lesson piecemeal, in due respect for those who have plans for Thanksgiving.

Mr. BYRD. Will the Senator yield?

Mr. HATFIELD. I will be happy to yield?

Mr. BYRD. The Senator from West Virginia is prepared not only to speak on history, I will be very glad to enlighten those who support the line-item veto with respect to poetry, I will make copious quotes from Milton's "Paradise Lost," or Dante's—or someone would say Dante's "Divine Comedy," Darwin's "Origin of Species," Adam Smith's "Treatise on Economics," and with copious and generous helpings from Shakespeare and the Bible.

So I think it is well for the supporters, the misguided, I must say, well-intentioned but misguided supporters of the line-item veto to be forewarned so

they may be forearmed. It may be well for the joint leaders to realize that if we ever get to that point in time, sine die may wait until January 3 of 1992 at noon.

Mr. LEAHY. Mr. President, if the distinguished Senator will yield to me further, I note that should that matter be, I will be here standing foursquare with my chairman to speak against it, too. I cannot imagine any Senator, especially a Senator from a small State, who could ever say that they had shown respect for their duty to their State if they voted for such a thing.

I will join in some of those Shakespearean discussions, too. I will probably quote at length from my two favorites, "Richard III" and "King Lear." But having said all that, so we would not hold up people further, I do have an amendment——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. I yield the floor.

Mr. LEAHY. I realize I am on the Senator's time.

Mr. HATFIELD. No, no. I yield the floor.

Mr. LEAHY. I understand the managers may have some technical amendments they may want to go to. I advise the chairman that I am here prepared to bring up an amendment and I hope it will not take too long. So I yield.

Mr. HATFIELD. Mr. President, I think we have made adequate record on the matter related to the line-item veto. But I do only raise that for the simple point of this vehicle, this exercise in this year's appropriations supplemental is, indeed, extraordinary and historic.

Mr. President, I do hope the Senators who expect to offer amendments will make themselves available. I appreciate the Senator from Vermont being here on the floor to start the amendment process. But I only urge, particularly those on my side of the aisle, and all of our colleagues, that if they have a plan or an idea of an amendment, certainly to be here. Senator BYRD, our chairman, and I are here to do the business of the Senate. This being Friday, I am very hopeful we can expedite this procedure. I want to put the Senate on notice that, as far as I am concerned, I will not hesitate to call for third reading of the bill if there do not appear to be any further amendments at a particular point in time that Members wish to offer.

Mr. BYRD. Mr. President, I thank my friend, Senator HATFIELD, and also thank my equally good friend, Mr. LEAHY.

AGRICULTURE DISASTER ASSISTANCE

Mr. COCHRAN. Mr. President, I rise today to urge my colleagues to support the joint resolution (H.J. Res. 157) which includes the Dire Emergency Supplemental appropriations bill and the $1.75 billion it will provide for agriculture disaster assistance for this Nation's farmers. As you know, Mr. President, I have been working on this critical issue for over a year and am pleased that we are now in a position to provide the assistance our farmers so desperately need.

The devastating consequences of adverse weather conditions across the United States during the past 2 years are clear and well documented. It is estimated that in 1990 alone, Mississippi farmers lost $100 million. While some areas of my State escaped the effects of the terrible floods last spring and were able to achieve normal and, in some cases, even above-normal crop yields, other areas have experienced significant losses in 1991.

In response to this situation, Mr. President, I introduced on July 10, 1991, a bill to provide assistance to those farmers hard hit by natural disasters in 1990 or 1991. The fact that this legislation was cosponsored by over 30 Senators attests to the dimensions of the crisis facing many farmers today.

I am pleased that the bill before the Senate today will provide the assistance that is long overdue. I urge my colleagues to support this supplemental appropriations bill.

AMENDMENT NO. 1391

Mr. BYRD. Mr. President, I send to the desk certain technical amendments. Mr. President, I ask unanimous consent they may be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1391.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1391) was agreed to.

Mr. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1392

(Purpose: Subject to enactment of authorizing legislation to allow the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, to provide that not more than $2,000,000 of such donated funds may be obligated for certain costs associated with the Conservatory renovation)

Mr. BYRD. Mr. President, I will temporarily delay my friend from Vermont. I send to the desk an amendment by Mr. JOHNSTON, for himself and Mr. GORTON. I ask unanimous consent that it be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Mr. JOHNSTON in explanation of the amendment be inserted in the RECORD as though read.

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

The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, for himself, and Mr. GORTON, proposes an amendment numbered 1392.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. . Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden.".

Mr. JOHNSTON. Mr. President, no funds were included in the fiscal year 1992 legislative appropriations bill for the renovation of the Botanic Garden Conservatory.

Yet, private donations are continuing to be raised to plan for the outside national garden, which is expected to be complete in time for the 175th anniversary of the Botanic Garden in 1995.

We thus may be faced with a situation where outside improvements are complete, but the Conservatory—the crown jewel of the Botanic Garden—is not.

This amendment will allow private funds to be used to begin the planning process for the Conservatory reconstruction, subject to the enactment of authorizing legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1392) was agreed to.

AMENDMENT NO. 1393

(Purpose: To increase the rate of price support for milk and establish a surplus reduction program for the production of milk and products of milk)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE, proposes an amendment numbered 1393.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with

the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in

the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I ask unanimous consent that this amendment be offered on behalf of myself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE.

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

Mr. LEAHY. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1394 TO AMENDMENT NO. 1393

Mr. LEAHY. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 1394 to amendment 1393.

Mr. LEAHY. Mr.. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is no ordered.

The amendment is as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities pro-

vided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the

Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricul-

tural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, the amendment on behalf of myself, Mr. KASTEN, and others, is very straightforward. It refers to our dairy farms and the escalating problems that they are facing. Our Nation's dairy farmers are up against very difficult times. Over the past year, those farmers have suffered through a dramatic 25-percent drop in the market price—causing many to lose thousands of dollars in income. In fact, some of the same farmers who produce the food for our country have been forced to apply for food stamps just to feed their own families.

In virtually every State of the country, from Vermont to California, family farmers are in danger of losing their farms. Even the Department of Agriculture admits that dairy farmers' revenues will drop by $3 billion in 1991 alone. Some of our farmers may not make it through these hard times. That is true across the country. The dairy farmers in virtually every State—virtually every State—are in danger of losing their livelihood.

The amendment I have offered to the supplemental appropriations bill is to help our Nation's dairy farmers. Its purpose is very simple. The amendment would raise the minimum support price dairy farmers receive by $1, coupled with a voluntary diversion program. This increase will help save our family farmers by giving them a fighting chance to make it through this winter and next year.

It will not make them rich, but it will give them that fighting chance. I am offering this amendment because I have been blocked at all other attempts to bring the Dairy and Disaster Assistance Act, reported by the Agriculture Committee, to the floor of the Senate. Since we have not been able to bring that bill before the Senate, today I am offering a similar but, I point out to my colleagues, a pared-down dairy package.

So everyone understands, the amendment I am offering is a price-support increase, coupled with a basic diversion plan, and that diversion plan is acceptable to the administration and the Department of Agriculture.

Unlike the committee-passed version of the dairy bill, this amendment only includes the support price increases, the diversion plan, and a simple extension of the solid standards for California alone. We have dropped the general solids provision. We have also dropped all other provisions of the reported bill that were objectionable to the administration.

It is important for all Senators to know that this bill is within budget. Let me emphasize that. This bill is within budget. In fact, the dairy program has shown a remarkable record for budget responsibility. In the early 1980's, the dairy program cost around $2.3 billion a year. Notwithstanding inflation, notwithstanding the fact that virtually every other Government program has gone up, from the $2.3 billion a year it cost in the 1980's, it now costs under $500 million a year.

Given these budget cuts, it is important that the dairy industry keep supply and demand in balance so that we no longer accumulate expensive surpluses. That is the purpose of this amendment. It is a program which will better manage the supply of milk; Government purchases of surplus dairy products will be reduced; and the entire package will be budget neutral.

Mr. President, if the Senate does not respond today, there is going to be pain in rural America. If we do not pass this amendment and support price increase, we are going to lose our family farms. They already face the constant threats of rising costs, of declining profits, of dramatic boom-or-bust swings in the marketplace. The giant farms can make it through these lean times, but our small family farms struggle to survive.

When our country was founded, we were an agrarian Nation. We were made up of small farms. In the past 200 years, large corporate farms have come to dominate our landscape. But some of our past, one of the best parts of our past—the family farm—still survives.

There is real pain on that farm. We need this price support increase. We need this diversion plan. It will be funded by farmers, for farmers. It will cut Government cost. It makes sense, and it keeps this vital part of our Nation viable. It helps to protect rural America. It gives family farmers who have worked hard—honest, decent, clean-living people—a chance. It tells them that that hard work actually can pay off.

So if we want to keep the family farm alive, if we want to keep these men and women in business, then we need to pass this amendment.

Mr. President, I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, first of all, I am pleased to join my friend, the Senator from Vermont, the chairman of the Agriculture Committee. As he said, we have been working—he has been working, particularly in the committee—to try to deal with this problem.

The fact is that it is absolutely essential that we raise the price support for dairy and that we raise it before we leave here. This opportunity might not be perfect, but this is the opportunity that we have. That is why the amendment before us, of which I am a cosponsor, would raise the price support for dairy, and at the outset I simply want to urge my colleagues to join me in supporting it.

The basic components of the diversion program of this amendment have been agreed to. They have been agreed upon by the chairman, the ranking member of the Agriculture Committee, the administration, the National Milk Producers Federation, and many others. So the diversion part of this amendment is no longer controversial. As I say, it is basically agreed to.

While I have personally had to take a deep breath, frankly, to accept some of the compromises of this package, such as deleting the standards for milk which are now present in California, I have nonetheless decided this is an acceptable agreement for the 34,000 dairy farmers which I represent in Wisconsin.

So basically, Mr. President, this amendment boils down to one single issue—$1. There is nothing complicated or difficult to understand. It raises the price support level from $10.10 to $11.10. And simply translated, the amendment raises the price support by $1—$1. That is what we are talking about.

While I strongly support a higher increase, this dollar will provide a critical boost to some of America's most valuable farm communities. That is a point that I think all of us want to stress. We are not simply talking about individual dairy farms. We are talking about rural America, rural Vermont, rural Alabama, rural Wisconsin. We are talking about some of America's most valuable farm communities.

A drop of just a few cents in the dairy price can turn a profitable farm into a failed farm, into a foreclosed disaster.

Earlier this year, Wisconsin farmers experienced a drop in their income of more than 25 percent, and at the same time feed costs and energy costs have been rising, so they were squeezed. They found this is causing a very serious squeeze in communities with large

dairy sectors. People who live inside the beltway, frankly, do not understand exactly what we are talking about and certainly do not understand how dire and how difficult the situation is in rural America, particularly in States like Wisconsin.

When you lose your job in the suburbs or in the cities, you go out and put an ad in the paper and try to find a new job. You go out and knock on doors. When you lose your farm in Wisconsin or in Vermont, or in some other place, when you lose your farm in the dairy country, your options are few. You are not trained for other kinds of things. There are not available other kinds of jobs. You cannot go out and do some other kind of work.

To ask these families to watch their life's work go down the drain I believe is simply unacceptable. It is unconscionable. They need and they deserve price stability, and that is what this $1 will provide.

There are those who believe we should wait until spring before we act on any price-support increase. I want to inform my colleagues that if we wait much longer, there might not be any cows left to milk for many of these dairy farmers, particularly in Wisconsin.

In fact, price stability is the key to a healthy agricultural economy. Without it farmers are going to go bankrupt. The economic hardship spreads from the farmers themselves, then to the banks who lend them money, then to the agribusiness dealers who supply them with feed and farm implements, and throughout the entire farm community.

So I want to emphasize the point I made earlier. We are not talking about a single dairy farm or dairy farmer. We are talking about a whole way of life. We are talking about rural economic development. We are talking about the opportunities and responsibilities that we here have in order to keep our rural communities vibrant.

Our rural communities cannot survive this kind of economic chain reaction. That is what we have been seeing. A situation in which farmers live on food stamps obviously does not help anyone.

Mr. President, bankruptcy and economic hardships are not the only things with which dairy farmers have to contend. Recently, I read a shocking article in a farm newspaper called Country Today, which is published in Eau Claire, WI. That article stated, "That suicide rates among men involved full-time in dairy farming are nearly twice as high as those of the general male population." And these were statistics according to the National Farm Medicine Center—twice as high. These are chilling statistics, and they are even more devastating when you stop and think about what our policies are doing and how they are affecting families all across this Nation.

We have more than bankruptcy and cash flow problems when we start talking about problems with the dairy farmers. We have real human tragedy.

According to a recent study by the U.S. General Accounting Office, while farmers are receiving 25 percent less for their milk, consumers only pay 5 percent less for milk products. This is very important because we see the price to the farmer going down by 25 percent, yet the price in the grocery store goes down only 5 percent. One of the issues that we are talking about here is the fact that we are finding the farmers in this sequeeze, but yet the consumers did not see that difference.

People talk about lags and say it would have gone down if the price was lower for longer, et cetera. The fact is we do not see the relationship. We have not seen the relationship between the price the people are paying and the price the farmers are receiving. I think it is important to recognize that because, if the price starts to go up, we also do not see the price going up at the retail level. Clearly consumers, as well as farmers, are right now being victimized by the current situation because they are not getting the benefits of the lower milk prices.

That is why all year I have been fighting to make price stability and fairness a reality for Wisconsin farmers, and I hope my colleagues, especially those 67 Senators who voted with us for a 30-percent increase in dairy back in March will today stand up with us for these financially strapped families and support this more modest increase, $1, roughly 10 percent increase in the price supports. They have been waiting too long. They have been waiting long enough. They need us to do the right thing, and the right thing for us to do is the very small price support increase of $1 to give them the stability that they need.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise as a cosponsor and strong advocate of this amendment.

Let me first say that I would have preferred to debate this issue on the Dairy and Disaster Assistance Act—a bill that was reported out of the Agriculture Committee in October. Unfortunately, we have been unable to bring that bill up because of opposition of certain Members acting on behalf of the administration. It has been made very clear to us that members on the Republican side of the aisle would use all procedural tools available to them to bring the Senate to a standstill should cloture be invoked on the motion to proceed to that measure. Given the press of this week, that threat has kept us from filing cloture on the bill and has forced us to the floor today.

I am not surprised that, now that we have been forced to raise this issue on the supplemental, the ranking member of the Agriculture Committee will oppose this amendment. But I hope that nobody will be swayed by his reasons.

The Senator suggests that anyone who wants the crop disaster benefits contained in this bill should vote against this amendment. In a letter sent to all members of the Senate yesterday, he said—and I quote:

> A vote for this amendment is a sure way to forestall any such benefits and ensure that hard-pressed farmers will not receive assistance.

Now, Mr. President, I know that there are hard-pressed farmers in many States who have lost their crops this year to floods, drought, and other disasters. But let no one suggest that these are the only hard-pressed farmers in America.

Dairy farmers in Wisconsin and across this country have suffered an equal disaster this year. The only difference is that their disaster is an economic one. And whether farmers have suffered at the hand of God or the hand of the market is not, in my mind, important. The fact remains that both have lost their livelihoods. Both are in desperate need of some assistance from the Federal Government. And both deserve our help.

Let me point out, Mr. President, that the pricetag for crop disaster assistance in this bill is $1.7 billion. The price tag for our amendment, however—an amendment that provides equally needed assistance to equally hard-pressed farmers—is zero. Our amendment would not cost the Federal Government a cent. Frankly, I am surprised that the ranking member of the Agriculture Committee can have no quarrel with a $1 billion disaster relief package but objects to a no-cost amendment to extend that relief to dairy farmers.

Mr. President, there is no legitimate fiscal argument against this amendment. The administration and the Senator from Indiana object to this amendment on purely philosophical grounds. And I hope that Members of this body will soundly reject their philosophy because it is a philosophy of callous indifference to American dairy farmers.

This administration's solution to the problem of surplus milk production is to drop the dairy price support. Supply management through attrition. Put enough dairy farmers out of work and the milk surplus will disappear.

Fortunately, Congress rejected this approach in the 1990 farm bill, and chose to freeze the dairy price support at its current level. However, because of the administration's refusal to endorse any kind of meaningful supply management program, we were unable last year to enact the kind of changes necessary to provide long-term price stability for the dairy industry.

Instead, USDA was directed to solicit and analyze supply management pro-

posals from the dairy industry, and come back to Congress with a recommendation on a supply management program this year.

Now, Mr. President, USDA received almost 100 supply management proposals. Some were mandatory programs; some were voluntary. Some were permanent; some were designed as standby programs. One would have thought that USDA could have found a supply management program to its liking out of all of these proposals. But USDA came back with a recommendation that no changes to the current program were necessary.

What I find so discouraging about this recommendation—or lack thereof—is that it was made on June 14 of this year. It was made when milk prices were at their lowest level since 1978. It was made after 60 Members of this body went on record in support of a temporary price increase for dairy farmers. It was made at a time when there is virtually no disagreement that changes are needed.

Since then, many of us in Congress have tried to develop dairy legislation that would meet the needs of the dairy industry without adding to the costs of the dairy program. In July, I joined with the distinguished chairman of the Agriculture Committee and others in introducing a bill advocated by the National Milk Producers Federation. That measure created a $12.60 price support, a two-tier supply management program, and a new standard for the percent of solids-not-fat in fluid milk. Despite broad bipartisan support for the measure, the administration vowed to veto the bill. In addition, cattlemen, consumer groups, and dairy processors raised concerns about the bill's potential impact on beef and retail dairy product prices. Instead of pressing ahead with that measure—which, in retrospect, maybe we should have done—we went back to drawing boards.

The result is essentially the amendment before us. And from the dairy industry's perspective, this amendment is truly a compromise. We have reduced the support price to $11.10 to appease the administration. We have replaced the two-tier program with a voluntary diversion program to address the concerns of the administration and the National Cattlemens Association. We have taken out the solids-not-fat change for fluid milk to address the concerns of consumer groups and dairy processors. And, in a separate amendment, we will provide a means of ensuring that the WIC program is held harmless.

Despite all these concessions, Mr. President—and they have been many—dairy farmers in my state of Wisconsin still support this approach. They do, sadly, because they are desperate for help.

In recent survey done by the University of Wisconsin, 528 farm families—90 percent of them dairy farmers—were asked about their financial status. More than 83 percent of them said that they were in financial trouble. Nearly half of them said they did not know if they would still be farming in 5 years. And when asked to grade the Federal Government on its support for their industry and their way of life, 75 percent rated the Federal Government's job as poor.

Mr. President, we have to improve our job rating. We cannot continue to turn our backs on the hard-working dairy farm families across this country. If we ignore the financial instability in the dairy sector, Wisconsin alone may lose 5,000 dairy farms next year. If we ignore the distress in dairy-dependent communities, Wisconsin's suicide rate among farmers—already twice as high as the rate among nonfarmers—will continue to grow. If we ignore the fact that dairy farmers are paying 1991 costs of production and receiving 1978 prices for their product, Wisconsin farmers will continue to have to seek help to pay for such basic necessities as food, heating and medical expenses.

Certainly there are farmers who will survive. But there are many farmers who will not. And every farm forclosure and auction puts not only one farm family out of work, but several people in farm-related jobs. If we do not act now, some 10,000 dairy-dependent jobs may be lost. Last week, we provided over $5 billion to extend unemployment benefits to people out of work. Let us not put more people out of work here today.

Mr. President, this amendment will not increase the costs of the Dairy Program. It will not increase the retail cost of milk. It will not reduce the ranks of WIC recipients. And it will not drive down the price of cattle.

If we do not adopt this amendment, we will have acknowledged one farm-related disaster and not another. If we do not adopt this amendment, the situation will only get worse next spring and the pressure to act greater.

If we do not adopt this amendment, we will be as indifferent to the future of America's dairy farmers as this administration is.

Mr. President, I am not willing to do that, and I hope that my colleagues also will not be willing to do that.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I first want to remind my colleagues that earlier this year when it became readily apparent that we had a severe crisis in the dairy industry, and this body did react very favorably to try and help the dairy farmers. By a vote of 60 to 40, we moved forward with a rather controversial piece of legislation which, would have given us a more stable milk price in time to try and bring about something like we are bringing about today. So I first want to thank my colleagues for their support at that time for Senator LEAHY, myself and that proposition.

But, as I pointed out at that time, that amendment was a much more controversial and less desirable provision that we could have with more time and effort. Today, we have such an option for the Members to consider.

What we are doing here today is to try and provide stability which will ensure that we do not put more farmers out of business than is necessary, and at the same time give stability to the dairy pricing system, which has been in effect for many, many years.

It always grieves me when we have to talk and defend ourselves as representatives of dairymen, because the dairymen of this country are heros. They have done more for our society in the sense of demonstrating what productivity can do to give us a secure, reasonable food supply. So I, first of all, want to show and demonstrate by a chart which will indicate very clearly the tremendous advantage that our dairy farmers have provided to our society. That does not include just the fact that they have been productive and the prices have gone down, but it also shows things which we find ourselves trying to defend.

The dairy farmers productivity has allowed many, many more people to be able to be on the WIC Program because of the tremendous productivity and the fact that they have brought us a product which is cheaper now than it was 10 years ago, and therefore has provided for many more people to be given an opportunity to be on the WIC Program. It has reduced the cost of our School Lunch Program. It has reduced the cost of providing nutritional food to the needy in times of great need to much less of a cost than 10 years ago.

Let me point to this chart so I can show you where we were 10 years ago. In 1981 we had a support price, of $13.10.

At that time, we had a growing supply, and we ran into some problems. So we came up with an different supply management program, combined with some price cuts because of productivity, to bring the cost of the program down, and also to provide our customers a much more reasonable price for their product.

This top line here demonstrates what would have happened if the dairy supplemental had been adjusted to the cost of living index. So right now that price support which was, $13.10 a hundredweight, in 1981, if they had just gone along with the cost of living increases, the price support would be $19.63. But what is it? This is inflated dollars, I remind you. It is now $3 less than it was in 1981.

If you were to take into consideration that these are inflated dollars

and ask yourself what is the real cost, based on the 1981 dollars, it would be $6.74 a hundredweight, or about half of what it was.

In other words, the productivity of the dairy industry is now providing us milk at one half the cost to consumers than it was 10 years ago. I say that because it irritates me when people get attacked by consumers groups that say our efforts will increase the price.

Let me examine the current situation with respect to that.

Right now, we have a price support of $10.10. But we have a price that is going up because this is the fall of the year. The reason it has increased is because we know that, by the cycle of cows and the way they produce milk, the fall, obviously is not time when cows have calves. So we have a reduction in the supply and therefore an increase in the price. Our farmers are getting well over $10.10, in the area of $12 to $13.

Thus, what we do today is to try to give that security to the farmers so that when the spring comes, by nature's cycle, calves arrive, and the production of milk increases in the spring. We will not fall off of the cliff again, as we did this past year and end up with serious economic ramifications on the dairy farmers and the dairy industry in this country. I want to point out that they are above where this amendment would increase the support price. So there should be no increase in the price to consumers, no impact the WIC program, and no reason not to support our very reasonable approach we have here.

Thus, for those that would say there are going to be ramifications as a result of this amendment, I say there is no rational basis for that because the price is above where it would be as a result of this amendment and if we hold it steady, it should have no real impact on consumers or any programs.

In addition, we will be using, under this program, a supply management program which we did use in 1983, when we had a problem of increasing supplies of milk, called a diversion program. In my mind, it is not the most preferable one, but it worked. It worked successfully. The problem was, however, it only was allowed to be worked for 15 months. We warned them at the time that it would work, but unless you expanded it to at least 3 years, it would not result in any change in the methodology in which our farmers produce milk.

A GAO study shows that it saved the Government from spending in reduced CCC purchases around $683 million during the 15 months. Six hundred eight-three million dollars.

I point out now that it had a zero cost to the dairy program and, in fact, saved spending. We transferred that saving onto the school lunch people and onto others who did not have dairy food supplies available to them.

This diversion program under this proposal will be working for a length of time which should give us some security. You might ask: If it worked before, why not try it again? I was a Member of the House of Representatives at that time, and we had to take an oath, if this program works, that we will not suggest it again, because we do not like programs that work in agriculture. They sometimes get us in a position where we do not have to do anything. We do not like that. We took an oath with the administration at that time and said if this program works, we will not ask for it again.

Maybe I am going against that, but I shifted from the House to the Senate. So I figure that perhaps that oath is no longer in effect. I am certainly going to support this amendment.

What we have for you today is a program that is proven to work. It worked in 1983. It worked to save us almost $700 million. It brought supply under control. It kept the price at a reasonable amount, furthermore it even reduced prices to a certain degree at that period of time.

So I urge Senators that if they want to ensure that we have an adequate supply of milk for our public, at a reasonable price, and be consistent with the vote that they made earlier this year then support this program. Had dairy farmers not had good years many more would have gone out than have already. What we want to do now is not place them in a position where they have drained most of their equity to stay alive. Next spring when the normal flush period for dairy begins we will not give them the coup de grace or place them in a position where they no longer have the capital necessary to live through those negative cash flow through situations.

Again I commend my senior Senator from the great State of Vermont, one of the prime dairy areas of this country, for his efforts in bring this bill to us here. I urge Senators to be consistent with their vote in March when they demonstrated sincere desire to help the struggling dairy farmers of this country to get a fair price for their milk; we will pass this and hopefully get it approved by the House and enacted into law before it is too late for our dairy farmers.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. EXON). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I would like to thank both Senators from Vermont and other Senators who have sponsored this amendment. I am pleased to be an original cosponsor of the amendment.

In many ways this amendment seems to me like something that is too late, inadequate, and not enough. I wish it were not attached onto an emergency spending bill. But it is a step in the right direction. It is an absolutely essential thing for us to do right now if we are to respond at all to the concerns and circumstances of the lives of dairy farmers in our country.

Now we must take this step forward. I hope the Congress will pass it, and send it to the President. And I certainly hope the President of the United States will support this amendment.

First, Mr. President, let me tell you in the spirit of honesty that for thousands of farmers it is too late. We have been talking about the need for dairy farmers to have a price that they can make it on for almost a year. And throughout the past 9 months thousands of dairy farmers have been driven off the land. For them it is too late. The administration did not want to act. I hope it will act now.

Second of all, Mr. President, for a majority of the country's dairy farmers this price, let us be clear about it, $11.10 with voluntary diversion is really just a small step forward. I mean if the average cost of production in the United States is well over $13 per hundredweight, then 11.10 per hundredweight is just a step in the right direction, not unreasonable to be sure. Excepting for the fact the price should be even higher.

My State of Minnesota has lost 500 dairy farmers this year. That is 500 farmers forced from their business, forced off the land. This amendment will not bring them back.

But we will need this amendment to raise the price for other farmers. Mr. President, we have spoken on the floor of the Senate about other citizens in our country who are in economic pain. I have spoken on the floor of the Senate about those citizens. Citizens that are unemployed. We had that debate about extending unemployment benefits. We have talked about people without health care. We have talked about children without an adequate education. We have talked about how difficult it is for many small businesses to make a go of it in these difficult economic times.

Mr. President, you know as senior Senator from Nebraska that there is a pain felt in America's heartland that has been less remarked upon. Now that pain in the countryside may be a little less clear, it may be more hidden, but it is no less real.

It is not always observed through statistics. But anyone who travels throughout rural America, and who talks to dairy farmers, can experience their pain, can see it in the looks of the faces of people. I have spoken here before about the importance of dairy farming to my State's economy.

We have 15,000 dairy farms in the State of Minnesota. That is about a tenth of the United States total. The milk production for Minnesota generates over $1.3 billion in cash receipts last year.

We are the No. 4 dairy State in the United States of America. Yet, and I want to repeat this several times, yet

the average herd size of a Minnesota dairy farm is about 50 cows, 50 cows per farm. So we are talking about a family farm structure of agriculture. We are talking about a business that generates $1.3 billion in sales a year that contributes to small town economies, that contributes to the economy of our State, that contributes to the economy of the heartland, that contributes to the economy of the Nation. And it is a family farm structure of agriculture.

Everybody loves the family farmer and the small business person, at least when it comes to rhetoric. But then when it comes to public policy, to make sure that family dairy farmers receive a fair price in the marketplace, all of a sudden the policies do not match the rhetoric.

Mr. President, I have said it before and I want to say it again on the floor, when we are talking about national dairy policy in the U.S. Senate, we are not only talking about a way of life, and we are not only talking about dairy farmers, we are talking about the very soul of this country. I am concerned and I will tell you something, every single citizen in this country should be concerned, whether or not they come from an agricultural State or not, that we are moving away from a family farm structure of agriculture to a factory farm system. That is what we are doing. We are making that transition. And if we make that transition, and we do not change the course of policy, every citizen in this country will deeply regret it. And I want to explain why.

A family farm structure of agriculture promotes economic vitality in rural America and in rural communities. It is also more environmentally sustainable.

And finally the dairy farmers in this country, and we all owe them an enormous debt of gratitude, have provided us with a plentiful supply of wholesome milk at a fair price. That is what we are trying to do with this amendment. It is not enough. It is too late for some, but at least it is a step in the right direction.

We are trying to enact public policy which will provide family dairy farmers with a fair price in the marketplace, or at least move us in that direction, while at the same time protect consumers and taxpayers and make sure that we have cost at a reasonable level.

We are not trying to make dairy farmers wealthy. We are not talking about powerful special interests.

Anybody who spends any time with dairy farmers in my State of Minnesota or anywhere in the country will realize that. We are just trying to achieve a fair and stable price, that is not too much to ask for, that is what anybody in business asks for, and that is what any wage laborer asks for.

This has been a long year for dairy farmers. During most of this year, they have seen their prices drop dramatically. Prices fell over 25 percent during a 12-month period starting in 1990, and yet at the same time, retail prices barely went down, if at all.

Now normally what we would expect is that when the farmers' prices go down, the retail milk prices go down. That way consumers who see the prices go down buy more in volume. That is the way it is supposed to work.

Unfortunately, the dairy market does not work that way. Instead, it works to the disadvantage of producers. Even when the farmers' prices go down—which is what has happened throughout most of this year—retail prices do not go down and retailers capture most of the profit. That is what the General Accounting Office tells us. Consumer demand does not increase because retailers do not drop their prices to reflect the costs. The middleman takes the middle, and the dairy farmer loses both ways.

Mr. President, farmers' prices have come up in the past several months, but there are indicators that the prices may go down again. Already cheese prices in Green Bay are turning down again, and that is usually a signal to dairy farmers that milk prices are about to decline.

The administration has said "There is no crisis in dairy." Three billion dollars in losses, according to one estimate, and thousands of dairy farmers driven from business. This is a crisis. "The market is working," the administration says. "Prices are coming back up." But the prices are not coming up to cover the cost of production. We still have a crisis. We have been waiting 8 months for action, and now it is time for the United States Senate and the House of Representatives and the President to take action.

Mr. President, before I was elected to the U.S. Senate, I would travel around the State and I would meet with farmers, and I used to hear over and over again the problem is that dairy farmers are divided, but we have had proposals around in which there was unity. Going back to last year—I believe it was in March—we had unity around a $1 increase per hundredweight. A veto threat in conference committee killed that. We had a proposal by Chairman LEAHY for $12.60, two-tier pricing. We were not able to move forward on that. We had the unity, but we did not take the action. Now, late in the session, I think we are about to take some significant action that will make a difference.

Let me make two final points: No. 1, it is profoundly disturbing to me that there are some who argue that if dairy farmers begin to get a fair price, somehow this will hurt poor people in this country.

Are we going to blame and punish dairy farmers, 160,000 dairy farmers, for the fact that one-tenth of the population, 23 million people, receive food stamps?

In Minnesota, there are dairy farmers who receive food stamps. Is that not a bitter irony? Also, surplus butter and cheese. I can hardly believe that the administration which has done so little for those people who are really in pain in the cities now will use that as an excuse—and I hope they do not—to do so little for dairy farmers across the country.

I want to remind my colleagues in closing that this is not a matter of urban versus rural. This is not farm versus city. It is not one region versus another. It is a matter of doing all we can by way of public policy to support family dairy farmers who have done such a marvelous job of providing us with wholesome milk at a decent price, farmers who have contributed so much to the national interest of this country. It is true that this is only a step in the right direction. But it is an important step, and I am very proud to be a part of this.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I nope that we might be able to get to the vote fairly soon. Senators have been asking me about that. Earlier this year we voted 60 to 40 in favor of this proposal. So Senators know how they voted then and will probably be reminded of this by the managers of the amendment at the time when they do vote.

I note also for Senators that it will be my intention, once this is over, at an appropriate time, to bring up another amendment on WIC cost containment. I do that to make very, very clear that adoption of this amendment will in no way cut into WIC participation. We have had strong bipartisan support of the WIC Program in this body. I have had the privilege, since I have been in the Senate, of being either the sponsor or main cosponsor of virtually every piece of WIC legislation that has gone through this body. I have either been the floor manager or one of the floor managers of every single WIC improvement item that has gone through the Senate. I would not, for this amendment or any other amendment, do anything to hurt WIC.

Our amendment, which will come up subsequently, will be designed to assure that nothing will happen to WIC. As I say, I have spent 17 years protecting WIC. I am not going to let WIC be hurt here.

Mr. President, I ask unanimous consent that I might yield to the Senator from Idaho for a series of questions which will not take more than, I think, a couple of minutes. I know he has a colloquy on some issues that he wishes to raise with me.

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

The Senator from Idaho is recognized.

Mr. CRAIG. I thank the chairman for yielding, and I am proud to be able to support the amendment he has provided us today. I want to compliment him on the effort and his persistence in trying to resolve the crisis that our dairy industry has been in. I have had the privilege of working with him on his committee, our committee, to try to achieve that.

But I have also worked with him to try to achieve a balance as it relates to the potential impact that I think some of us were very concerned about as to a program that would bring additional red meat to the market and, of course, result in some kind of price reduction that might impact the beef industry of this country. We have tried to resolve that and I believe that a diversion program designed like this, with the payment level where it is set, goes a long way toward resolving that issue.

But there were other things done in committee, Mr. President, that are awfully important that not only should, I think, the record show and be understood as to the intent of it, but should be discussed for a brief time on the floor.

My concerns, of course, as I expressed them, are an interest to bring balance to the red meat industry and the cattle interest, because I am saying here—and I think we all recognize—that the dairy industry provides a substantial portion of red meat along with the cattle industry to this country. So they are both cooperative types in this effort.

I ask the chairman, does the amendment follow the guidelines of the committee to protect the cattle industry as we discussed and voted on?

Mr. LEAHY. Mr. President, I would tell the distinguished Senator from Idaho the answer to that is a definite yes. I should also note for the Senate that the Senator from Idaho has been very important in getting this legislation here. He serves as a valuable member of the Senate Agriculture Committee. He comes from a State which has both a dairy industry and a cattle, or red meat, industry and has been invaluable in working with me and Senator JEFFORDS and with so many others in trying to balance those interests.

But to his first question—I know he has other questions—but to his first question, the answer is a definite yes.

Mr. CRAIG. Mr. President, it is my understanding that the amendment directs the Secretary to vary the beginning and the ending dates of the surplus reduction contracts to minimize the effects on beef producers, or red meat producers?

Mr. LEAHY. Again, Mr. President, the Senator is correct. Yes.

Mr. CRAIG. It is also my understanding that the amendment directs the Secretary of Agriculture to limit the monthly dairy cow slaughter and monitor this on a week-to-week basis and suspend the reduction program if the dairy slaughter rises excessively?

Mr. LEAHY. Again, Mr. President, I am pleased to state that the answer is yes.

Mr. CRAIG. I thank the chairman for yielding. I think all of us are concerned about the dairy industry as we know it, to bring some stability there in price structure and, of course, profitability to the family farmer who really is a large part of the dairy industry in my State and in the chairman's State, but also to recognize there could be other impacts as a result of dairy cattle moving to the market for slaughter.

These amendments that we have discussed, as well as the bill itself, works to mitigate that very effort.

I thank the Chairman for yielding.

Mr. LEAHY. I thank the Senator from Idaho.

The PRESIDING OFFICER (Ms. MIKULSKI). Who seeks recognition?

Mr. LEAHY. I believe I still have the floor, but I know there are other Senators who want to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, most Americans are not aware that dairy prices have hit their lowest point in 13 years. Few Americans know that dairy farmers all over the country are struggling to keep their operations going on the same price they received in 1977.

In real dollars, milk producers are receiving about one-half of what they were only 14 years ago. To be able to make a living at that price, dairy farmers are expected to increase productivity at over 5 percent per year for 14 years, more than three times the rate of productivity gain for the United States.

In my State of North Dakota, we lost one dairy farmer per day for a large part of 1991. One dairy farmer per day is going out of business in my State as a result of poor dairy prices and high operating costs. In 1985, there were 3,400 dairy farmers in North Dakota. By 1988, that number had dropped to 2,500. Today, Madam President, there are just over 1,500 dairy farmers in North Dakota.

Madam President, earlier this year I invited the Secretary of Agriculture to North Dakota. Secretary Madigan accepted my invitation, and we spent part of the time in my State on a dairy farm. The owners of that dairy farm that we visited, the Kalvada family, told the Secretary that these are the worst economic times ever to hit the dairy business.

In a hearing before the Agriculture Committee yesterday, an official of USDA told us that rural America is strong and healthy. Madam President, that just is not so. Nowhere is it more clear than in dairy.

My dairymen have told me that their bankers will not finance them any longer if the dairy program is not changed.

This bill provides that dairy producers receive an increase to make up for just 25 percent of the rate of inflation since 1977—that is not asking too much, not 25 percent more than inflation—just 25 percent of inflation.

The bill proposed by the dairy cooperatives, and embodied in Senator LEAHY'S bill, would mean that dairy farmers would receive a pay raise of about 1.5 percent per year for the past 14 years when inflation averaged 5.2 percent per year. In other words, even with the improved price in this bill, dairy producers are expected to increase their productivity by 3.7 percent per year to survive.

The American consumer pays a lower percent of his income for food than do the consumers of any other country in the world—about 10 percent. The American consumer pays so little because our farm programs have worked to the benefit of our consumers.

This legislation also protects the WIC Program from any effects. I am pleased that this small increase in dairy support will not affect that important program.

Additionally, I have worked hard to make sure that the red meat industry is not harmed by this dairy legislation. The committee accepted my amendment—with bipartisan support—to make sure that cattlemen and other red meat producers are not adversely affected.

In addition, the Leahy-Lugar compromise contains a provision that the Secretary may suspend the diversion program if dairy cow culling exceeds a certain level. These two provisions—my amendment and the Leahy-Lugar compromise amendment—should preclude any adverse effects on the red meat industry.

Let me close by stating once again that I am pleased to support this legislation with the above provisions to protect the red meat industry and the WIC Program.

Madam President, if you go to my State and visit the dairy farmers, what you will hear is that they are faced with a serious crisis: Falling prices, rising operating costs, and a level of payment in the marketplace that simply cannot sustain their lives.

These are not rich folks. These are not giant corporate dairy farms. These are family farmers who have made a living for generations on the land. And the question before this body is: Do we force these people from the land or do we give them a chance to continue?

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I rise to support the Leahy amendment to the supplemental appropriations bill in

regards to the dairy farmers of America. We have seen an unusual situation. The dairy farmers' price at the marketplace has fallen over the last year-and-a-half between 30 and 40 percent of what they normally would have received for their milk. Unfortunately, this was not reflected in the price of milk at the supermarkets and grocery stores.

Consumers have been paying the price that they have been normally paying over a great number of years. The price that the farmer received is the lowest in 13 years. A lot of effort has been expended in trying to come up with a solution in regards to this problem.

Earlier, a two-tier system was considered. But opposition arose. Any time we deal with dairy, since cows are involved, we try to reach an accommodation by which dairy farmers can be helped but, at the same time, cattlemen and other red meat producers are not harmed in any way.

The Leahy amendment balances these concerns and in my judgment is an excellent legislative approach to try to be of assistance to our dairy farmers.

But at the same time, to not hurt the beef and red meat producers of this Nation.

The Leahy amendment to the supplemental appropriations bill will increase the safety net for American dairy farmers by $1. By increasing the support price for fluid milk by $1, we can avoid the painful price drop in the future that the dairy farmers have experienced over this last year and a half.

By coupling the price support increase with a marketing diversion program, this amendment will not increase budget outlays. The chairman of the Agriculture Committee, Senator LEAHY, is to be commended for forging this compromise and working out this bill. I congratulate him on achieving a bill which I think is in the best interest of America as a whole, and will be helpful to dairy farmers, but at the same time, will not hurt the beef and the red meat producers.

Madam President, while I am on the floor, let me also congratulate Senator BYRD and the members of the Appropriations Committee in drafting other aspects of this supplemental appropriations bill in a manner to be of assistance to the farmers of America.

We have seen unusual weather conditions at various localities throughout the United States. My State of Alabama has had sections of its State that have suffered from drought or unusual weather conditions that have decreased their production of various crops substantially 5 out of the last 6 years. We have certain sections, particularly the Tennessee Valley, which is the northern section of Alabama, that has had adverse weather conditions now for a number of years. Last year, the Tennessee Valley and the entire State of Alabama experienced extreme heat and drought conditions.

The lack of rainfall during the 1990 growing season and the erratic rains of 1991 pushed a number of Alabama family farmers to the brink of financial collapse. Therefore, it is imperative that a Federal disaster assistance program be forthcoming. According to the 1990 USDA estimates, cotton production in Alabama was down 35 to 50 percent. Peanuts were down 40 percent. Soybean production was reduced by 50 percent.

In the 1991 heavy spring floods, we found that they ruined many of the State's spring harvested crops, such as potatoes, wheat, canola, and sweet corn. We had also had in both years' freezes that occurred that affected our fruit crops, like our peach crop in Chilton County and other counties.

In 1991, these unusual weather conditions caused unusual conditions. Farmers have shown me potatoes, as an example in Baldwin County, Mobile County. If you took the potato and squeezed it, it would shoot out a stream of water. Those potatoes rotted in the field because of the adverse rain conditions as they existed during the spring of this year.

In the Tennessee Valley, they suffered unusual drought during the period of time in July and August when they needed rain. Earlier, they experienced too much rain and their planning season was delayed. Freezes came and destroyed many, many cotton bolls, and they were not able to produce anywhere near to the cotton.

In other sections of my State, in regards to the cotton crop, the rains came and, therefore, they did not suffer. But the bill is designed in a manner by which those who suffer will receive benefits, and those who did not suffer will not be receiving benefits.

We have had a very unusual situation in regard to our winter wheat production during this year. It was down considerably. The rains came at the wrong time, and it was too much rain. The unpredictable and erratic rain conditions in the State have caused a great deal of disaster.

The cotton farmers, particularly in the Tennessee Valley this year, not only experienced disaster as a result of no rains at the right time, but also too much rain at the wrong time. In addition to that, the price of cotton dropped by 30 cents a pound. The provisions in the supplemental appropriations represent a commitment to the American family farmer, a commitment that should not go unfulfilled, and the resolution will go a long way toward sustaining family farmers in this Nation.

This bill, of course, provides for both crop years. The House bill provides for a choice in regard to this, and I am sure that the conference will work out the differences. We have allocated $1.7 million in regard to disaster, and that will be considered. We hope that this will go through, the President will sign it, and that there will be some relief for our farmers who have suffered. The bill is crafted in such a manner as to where nobody gets a bonanza. If they have crop insurance, that is taken into account, too.

The last time that we passed the farm bill, we provided in the authorization bill for this. But no appropriations came along at that particular time.

We strove to try to attain it, but we were not able to attain it. So this year, we see that the supplemental appropriations corrects a real situation that needed correction, and we see that this bill is an excellent bill. It contains provisions dealing with disaster.

So I hope that we will pass the Leahy amendment rapidly as it applies to our dairy farmers and move forward in regard to the weather disaster provisions that are contained in the supplemental appropriations bill.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Madam President, I rise to support the amendment of my colleague from Vermont. He has asked me to be relatively brief about it, and I appreciate that, and I will be. I think I can get right to the heart of the issue.

I have been preceded today by some both more eloquent and perhaps more illustrative, as I look at some of the charts around here.

Mr. President, I come from the fourth largest dairy producing State. The country in which I was born and raised is probably the most productive dairy county in this country, certainly it is in the Upper Midwest. So the reality that the dairy farmers of this Nation are hurting is impressed on me every time I go home.

The last 12 months in the dairy industry have proven that a price of $10.10 per hundredweight is not enough.

If the Senate approves a dairy bill without a $1 increase in the price support, it would be like throwing a 10-foot rope to a drowning man 20 feet from shore.

The Senate has the opportunity today to provide long-term assistance to America's beleaguered dairy farmers. An $11.10 price support with a voluntary diversion program will assure farmers a fair price for their milk and keep them in business as well.

This dairy amendment will not only help dairy farmers—it will help the communities of rural America.

Our dairy farmers produce 10 billion pounds of milk, and manufacture 654 million pounds of cheese, 115 million pounds of butter, and 37 million pounds of powdered milk.

In January 1991, Minnesota had 15,350 dairy farms. Today we have 14,500 farms—850 fewer—and we are losing more each day. Without an increase in the support price, Minnesota will lose another 1,000 dairy farmers in 1992.

There is no blinking at the fact that there is a real problem in dairy right now. In 1991, dairy farmers saw the lowest prices for milk since 1978—with prices dropping as low as $10 a hundredweight. The rural countryside is devastated. As dairy farmers go out of business, so do all small businesses in the communities.

Everytime 7 dairy farmers shut down operations, 1 small business closes its doors and that is a loss of another 150 small businesses in my State.

It will help consumers who will have to pay higher prices as the number of local dairy farmers decreases. There is no question about that. We cannot rely on huge dairy farms in California for cost-effective production to meet the needs of consumers throughout this Nation.

Madam President, the United States is in a recession. Many people are having to do with less. But how many Americans are working 12 to 16 hours a day and getting the same pay as they did in 1979? The dairy farmers are, and it is impossible to pay 1991 bills with 1979 prices. My very eloquent colleague, the junior Senator from Vermont, made that case so very well on the floor.

Farm taxes have increased by 36 percent over the last 10 years, tractor prices increased by 70 percent, machinery costs by 88 percent, and fuel and energy costs by 39 percent.

Keeping dairy farmers in business is good for America. This is not an issue of city versus country or nutrition programs versus ag programs. It is an issue of what is right and what is good. This amendment will keep dairy farmers and rural small businesses and communities in operation. Most importantly, the amendment guarantees our Nation a supply of safe, fresh, affordable milk.

The best part of the amendment is that it has the support of the real dairy experts, the farmers themselves. I have heard from hundreds of them in my State, and they all say they must have $11.10 per hundredweight to survive. It would bring stability to their farms. I urge my colleagues to support our Nation's dairy farmers and to approve this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also rise in support of the amendment of the Senator from Vermont, the distinguished chairman and thank him for his effort in bringing us to this point.

Those who argue for no compromise on price support increases trouble me a good deal. We are a body that is based upon sacrifice and compromise and accommodation and appreciation of the difficulties that constituencies across the country face, whether they are ours or somebody else's, and this attitude about no compromise, this belief in no price support increases ignores the facts.

We did not see these arguments when we indexed taxes. We did not see these arguments when we argued for an increase in the cost-of-living allowance for various people. We did not see these arguments when salaries here in the Congress or down in the White House or any place else were considered. The fact is, each and every time those particular matters were brought to the attention of the Senate, we understood the need. We understood that we had to respond to very specific concerns and understandable needs and did so through compromise.

That is really what this is all about, Madam President. We are talking about compromise. Yet there are those who tell dairy farmers, "Forget it; we want you to swallow the costs. If you cannot make it on 1978 prices, find something else to do."

The fact is support prices are not in line at all with the cost of production today. Costs-of-production estimates are that prices last year alone to most dairy farmers, when having to deal with their costs, went up 10 percent. The fact is they are making up for their price in increases in volume and that, very frankly, has been self-defeating. A 2-percent increase in milk production last year resulted in a 30-percent drop in farm prices. USDA estimates the cost of production in the upper Midwest today at nearly $14 per hundredweight. Nationwide the cost of production is $13.62. So the price today is at least $1—$1 below the cost of production.

Now, what business anywhere in the country can survive for any length of time on a cost of production that is above the price that they receive in the marketplace?

The result has been very predictable, as it would be for any business. The result is that 5 percent of our producers in South Dakota have already been forced out of business. The result is that 10,000 farmers are estimated to have lost their opportunity to produce dairy products nationwide.

The administration argues that it is just the inefficient that are being forced out, that to a large extent it is the small, inefficient farmer that has no place in the modern agricultural environment that we work under today; that in order to be efficient you have just got to be bigger.

Nothing could be further from the truth. If size was any guarantee of efficiency, Eastern Airlines, Pan American, Midway would all be part of business today. If size were any factor of efficiency, the Bank of New England would be prosperous today. If size were any factor of efficiency, we would still have a lot of S&L's that are out of business today and the RTC would not even exist.

The fact is that size is no guarantee of efficiency. The fact is that there are family farmers who have an amazing level of productivity. The fact is that it is not their productivity that is driving them out of business today. It is the price.

A 30-percent price drop resulted in a monthly loss of $5.7 million in South Dakota alone. USDA projects that cash receipts to dairy farmers in the United States will drop by $4 billion this year. In the State of South Dakota, there has been a 7-percent increase in the number of farmers on food stamps in the last 3 months nearly all of them dairy farmers—a 7-percent increase. And what a cruel irony. Those producing food need food stamps just to buy it back.

This legislation is not going to turn these circumstances around completely. We recognize that. No compromise will ever do that. It will not do all that many of us would like it to do. Producers will be asked to submit to voluntary production controls and limit the exposure of the Federal Government in return for a fair, stable price.

So here are the final facts. The costs for administering the program will be paid for by producers through assessments, not the Federal Government; $11.10 is below the current market price. The bill will not increase retail market prices. Rather, wholesale prices will be prevented from crashing down to bankruptcy levels once again. Finally, an $11.10 support price in conjunction with the diversion plan will save taxpayers tens of millions of dollars in program costs over the next 5 years.

Madam President, those are the facts. Those, I hope, will be given consideration by all Members as we weigh the extreme importance of this legislation to every dairy farmer in America. I urge its adoption. I urge its careful consideration, and again I commend the sponsors for their leadership in bringing it to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to speak about the amendment on dairy and disaster assistance which was offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY.

DISASTER

First, I would like to express my strong support for passage of the disaster assistance provisions. This legislation will provide needed assistance to farmers who suffered crop losses due to adverse weather conditions for 1990 and 1991.

Mother Nature has again dealt a cruel blow to some farmers across the country.

Whether they have suffered from too much rain, or not enough rain, or freezing conditions, the result is the same—some farmers have lost their crops due to conditions beyond their control.

While Montana has been very fortunate this year and last to have had adequate rainfall throughout most of the State, there are farmers in a few areas in Montana who lost their crops because of adverse weather.

Last year, we had some farmers who suffered because of drought conditions. This year, our cherry farmers lost their crops because of a hard freeze.

Losses for these farmers are no less real than they were during the devastating drought years of 1988 and 1989.

That is why I strongly support passage of this disaster authorization, and the $1.75 billion that is provided for it in the supplemental appropriations bill.

Farmers in Montana and throughout the country should not have to suffer financial devastation at the hands of Mother Nature.

OPPOSE DAIRY

I am afraid, however, that I must strongly oppose passage of the dairy portion of the Senator's amendment.

I am sympathetic to the plight of dairy farmers. And I know that they have suffered hard times lately.

But unfortunately, this amendment threatens the financial well-being of Montana's largest industry—cattle. Therefore I must oppose it.

When I talk to Montanans about a dairy diversion program like the one we are considering today, they see red.

THE 1986 BUYOUT

They will never forget the devastating effect the 1986 dairy buyout program had on domestic cattle prices.

That program may be the single worst idea to come along in the farm debate in the last decade.

In 1986, during the week following USDA's announcement of the buyout, cattle prices declined nationwide by from $2 to $6 per hundredweight, depending on the type of cow. This decline equals a drop of from $20 to $60 per head; or a 1 week total of about $25 million.

Montana cattle prices, on the other hand, during that same period, dropped a whopping $8 to 10 per hundredweight. Or nearly $100 per head.

When you consider the fact that the cattle industry is the largest industry in the State of Montana, any kind of price fluctuation can have a devastating impact on our economy.

And let there be no doubt about it, a dairy diversion program, no matter what the form, could have a similar effect on cattle prices.

The 1986 price decline was caused in large part by the fact that the USDA did not follow the law when implementing the dairy buyout program. Montanans do not trust that the USDA will do it right this time either.

According to the National Cattlemen's Association, every $1 move in cattle prices today affects the cattle industry by about $6.6 million every week.

Cattlemen simply cannot withstand such a gouging.

Clearly, the 1986 proposal and the one before us today, set up a system under which we rob Peter to pay Paul.

What I am concerned about is that the cattle industry would be forced to represent Peter.

FRAGILE CATTLE PRICES

Montanans also believe that we could see a large number of cattle come on the market at a time when cattle prices are fragile. During August and September of this year, cattlemen suffered losses of up to $200 a head, and are today losing between $50 and $75 a head.

Montana cattlemen don't understand why we should pass legislation to help the dairy industry whose prices are currently increasing, at the expense of the beef industry whose price decreased 2 months ago and has not yet recovered.

All that the cattlemen ask is to be left alone to get a price based on the free market system of supply and demand.

LONG-TERM SOLUTION

In addition, it is clear by the amendment we are considering today that previous dairy surplus-reduction programs have had no lasting effect on the milk surplus or milk price situation.

Since 1986, production has increased with fewer dairy cows, but with substantially higher milk output per cow. There are also fewer dairy farms, but sharply larger average herd sizes.

What we need is a long-term solution to the recurring milk surplus problem so that the cattle industry is not continually threatened.

The only solution, in my view, is to let the market take its course.

Creating this diversion program will only place a Band-aid on the continuous milk problem and cause a rupture in the beef industry.

FREE MARKET FOR BEEF

Further, cattlemen—unlike dairy producers—benefit from no Government support programs. They live and die completely on the free market.

Therefore, I find it unfair that the cattlemen should be asked to pay for an additional dairy subsidy.

It is for these and other reasons that I am unable to support the dairy proposal.

It is unfair to come up with so-called solutions for the problems of one industry at the expense of another—especially when the other is the largest industry in Montana.

You can be sure that if the Government subsidizes competition to America's cattlemen, the cattlemen will come out the losers.

CONCLUSION

Finally, I want to again express my strong support for the disaster provisions of this amendment.

It is unfortunate for me that the dairy and disaster provisions are being considered together. I wish they weren't because I very much support disaster relief to American farmers.

But because the dairy proposal poses such high stakes for my State, I must vote against the package as a whole for the reasons I just outlined.

The essential point is this: I understand the problems facing the dairy industry, but unfortunately this amendment does not have sufficient safeguards to protect against another devastating blow to the beef cattle market such as occurred in 1986. That is the essential reason why I must oppose the amendment.

I do not like to be in the position where one segment of American agriculture is at odds with another. I do not think the dairy industry, nor do I think the beef cattle industry likes that position. We very much prefer to be in the position where we can reach an agreement, an agreement that would accommodate both the dairy industry and the beef cattle industry.

When we reach that accommodation, I think we will reach an agreement. Unfortunately today, we do not have that agreement. There are not sufficient safeguards built into the amendment which would give the requisite assurance to the cattle industry so that cattle and dairy could come to an agreement.

It is therefore with regret that I must, and very strongly, oppose the passage of this amendment. I urge my colleagues to do the same. Thank you Mr. President.

I yield the floor.

Mr. SIMON. Madam President, dairy farmers across the country have been asking Congress to come up with a more effective Federal Dairy Program. They want to see a fair price for their milk in relation to their cost of production and they want to see more stable prices. Senator LEAHY and others have been working hard to come up with a bill that the Administration can live with and that is fair to everyone involved. This bill raises milk price supports modestly, and it establishes a supply management program that will stabilize the production of milk and contribute to an overall more stable market for producers and consumers.

With the combination of an increase in the price support for milk and implementation of the diversion program, we have a dairy program that will stabilize prices to the farmer and the consumer with less cost to the Government. This bill does not raise the retail price of milk and it does not cost the Government more money. The supply

management program implemented in the bill—the voluntary diversion program—is acceptable to the administration and to the dairy industry nationwide. It successfully manages the supply of milk in this country and does so in a fiscally responsible way.

Farmers are not the major recipients of the money we pay at the grocery store. In the past 2 years, the price of milk to the farmer has reached record highs and record lows. The General Accounting Office found that when milk prices dropped 25 percent, consumers only paid around 5 percent less for milk products. This bill will hopefully bring some fairness back into the market place. It will keep thousand of dairy farmers from going out of business, it will provide some hope for struggling rural America.

Regarding the disaster portion of this bill, I support the $1.75 billion appropriated in the supplemental appropriations bill for disaster relief to farmers suffering from a severe drought. Eighty-two counties in Illinois have been declared eligible for emergency loans by the Department of Agriculture. Some farmers in my State have losses up to 50 percent of their yields. Farmers in the Southern counties of Illinois were hit twice this year when the winter wheat crops were damaged by disease due to heavy rains. In December, farmers will start making financial decisions for the 1992 planting year. For some, a disaster payment will determine whether they are eligible for 1992 crop loans.

Congress gave the President what is in effect line-item veto authority over this bill. It is my hope that the administration will agree with Congress and appropriate the full amount for disaster relief to farmers.

It is apparent, however, that now more than ever we need a strong Federal crop insurance program to help farmers make wise financial management decisions. Farmers cannot continue to hang in the balance, while the administration and the Congress decide year after year whether to declare an emergency for disaster relief to farmers. I am looking forward over the next year to examining more thoroughly, proposals for a Federal Crop Insurance Program.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Vermont.

Mr. JEFFORDS. Madam President, I will be very brief.

Madam President, I understand the concerns of the Senator from Montana. I want to reassure him that first of all I am committed to working over the holidays and before next year to reach the kind of an agreement to which he referred, where the cattlemen and the dairymen can live in peace. I believe that this can be achieved.

Second, I want to reassure him and his colleagues that in 1983 when a similar diversion program was put into effect, there was absolutely no impact at all on the beef industry; that any impact this will have will probably be negative, if anything, because it might result in less cattle going on to the market.

Third, I would also point out to my colleagues that this past year, because of shortages of beef, especially in the area of lean beef where the dairy industry cattle are utilized, we imported over 1 million cows in order to supply the market. Thus, there should be further understanding that any impact, of which I believe there will be none other than ordinary culls—there should be no impact whatsoever upon the beef industry by this program.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I rise to oppose the amendment offered by the distinguished chairman of the Agriculture Committee, Senator LEAHY. I do so with regret that this amendment is being offered on the dire supplemental appropriations bill.

We have considered dairy issues and issues involving other farm producers and consumers in America throughout the year. The dairy issues are important, and the problems faced by dairymen are very substantial.

I have no argument at all with the thought that has been expressed by many who have spoken this morning about the human tragedy of dairy producers in our country who are not making a profit.

Indeed, the figures that have been given by a number of Senators show the enormity of the problems of those individual producers—it was suggested by one of my colleagues that the average cost per hundredweight in the United States of America is in the ballpark of $14 per hundredweight—clearly, with the price minimum support price of $10.10, or the price offered in the amendment today of $11.10, or even the current market in the country, which ranges somewhere between $12 and $12.50.

If in fact the average production cost for dairy farmers is on the order of $14, by that reckoning the average dairy farmer in America is losing money, a lot of money. As a matter of fact, Madam President, in hearings held by the Agriculture Committee we took a look at figures from New England and Eastern States which showed that in fact there were 10 percent of dairy farmers in those States with average costs of $18. Indeed, 20 percent of the dairy farmers, as I recall, had costs of $16 or above.

Madam President, the basic question that faces this body and the country as we consider an amendment of this sort, is clearly, as one Senator has expressed it today, what business can survive if production costs exceed prices—exceed prices by quite a lot, as a matter of fact.

The answer is that no business, either a small dairy farmer or a large one or a retail merchant or a small manufacturer, can stay in business if production costs exceed prices for any sustained period of time.

I suppose the question, Madam President, that is being asked by the dairy farmers is essentially whether the United States of America, all of the rest of our citizens, ought to provide enough income to them—that is, the dairy farmers—so that their income will equal their costs. That is the position that the Leahy amendment approaches today.

It approaches it in a modest way because by my own reasoning the $11.10 as a support price does not come close to $14. I think the dairy farmers know that too. Many dairy farmers support this amendment as a step that they feel will be helpful to them. I will argue shortly that certainly not all feel that way; But if the amendment is clearly inadequate, if one were trying to get the whole job done—that is to sustain dairymen, all 160,000 of them in our country.

Madam President, what is really being suggested is that we attempt, in this specific industry, to do something that the public as a whole does not prefer to do for most industries. That is that we accept the fact that producers have costs, and through taxpayers funds, try to supplement income until the income of the producer is equal to those costs.

It has been suggested that this particular issue arises because diary farms overproduced, as in fact they did, the amount of milk that was demanded by the public in 1989 and 1990. When overproduction occurs, Madam President, the price falls. That is true in every business, even those in which there are marketing orders and governmental supports, such as the dairy business.

As a matter of fact, Madam President, unless there is substantially greater demand for milk and milk products in our country, we will perennially be in a situation, where a small increase in supply, a small increase in production, creates surplus and declining prices. In this particular case, the prices rose, and dairymen were apparently stimulated to produce more. They did so, and prices fell, all the way down to the floor; a $10.10 support price was provided by last year's farm bill.

Let me point out that last year's farm bill was favorable to the dairy industry. It provided a floor for dairy producers. There is no floor for hog producers or for apple producers. There is a very special niche here, a price for dairy producers. To say the least, the farm bill, if anything, we skewed in favor of dairy producers.

I congratulate the distinguished chairman of our committee, whose strong advocacy was largely responsible for that result.

But, Madam President, having given the benefit of the doubt to the dairy producers, as opposed to many other producers, dairy producers did produce more, and their price fell and hit the floor. Thus, earlier in this year, when the last dire supplemental appropriation came before us, impelled largely by the costs to this country of fighting and military activity in Desert Storm, you can imagine my surprise when in the midst of discussing the war, suddenly the distinguished chairman of the Agriculture Committee rose and suggested that we increase dairy prices by 25 percent.

Madam President, by and large the same sentiments were expressed then. Senators who have dairy farmers in fair numbers in their States came to the floor both to speak and to vote on behalf of what I considered an arbitrary increase in the price of one agricultural commodity. The proposal of the distinguished chairman was not to raise the price of corn by 25 percent, or soybeans, or cattle, or apples, but milk—a very specific targeted amendment.

I suppose history will record that debates such as the one we are now having are a principal reason why our country has very substantial financial problems; and even more, Madam President, why there is a certain cynicism in the public as a whole about the way we conduct our affairs. When constituents ask us how could the Federal budget get so far out of hand, or why do Members of the Senate listen to special interests, as opposed to consumer and Americans generally, one should look at this debate that we have had today.

A long train of my colleagues are coming in to say that dairy farmers in their States have production costs substantially greater than their income, and they are hurting, and they are hurting in an America that has many economic problems. Therefore, on a dire supplemental bill, at this point in the Congressional session, we ought to react by raising the support price by $1 and to go into a diversion program to assist them. This is to occur even though, by definition of the average prices and average production costs, even if this amendment were adopted, it would not do very much for them, in my judgment.

In fact, I will argue that this particular amendment will operate in a very perverse way, to the extent that it stimulates a significant number of the 160,000 dairy producers in our country to produce more. This is usually the way upward price signals in the market are interpreted. If the Federal Government guarantees a price, it is almost a knee-jerk reaction that more supply is forthcoming. Despite all of the hopes for the diversion that accompanies this legislation, the facts are that whenever prices have been raised, so have been expectations in surpluses. And we are then in a dairy industry which is prepared for another precipitous fall, and the cycle would bring distinguished Senators to the floor again to suggest still more price fixes for the dairy industry.

In fact, Madam President, if what is required here is some fairness—and that was suggested earlier on—fairness in the marketplace means supply and demand. Fairness must also be shown to consumers who do not pay a hidden tax for milk that they do not wish to consume. Fairness means that we do not attempt to reward a particular special interest in the hope that all the rest of America will not notice.

A suggestion was made that if a cost-of-living increase had been reflected in the dairy price over the course of the last 2 decades, the price of milk would now be $19. This is to suggest that we have a static economy, the same people, same productivity, same costs, and that absolutely nothing in the world changes. If you applied that logic to computers, and calculated what they were worth 20 years ago, as opposed to today, the results would appear ludicrous. The same would apply to a whole host of things that are very much a part of our lives. Of course, we do not hold prices equal for 20 years with cost-of-living indexes. We have efficiency and productivity gains in our economy, and that has brought us a higher standard of living. Our economy is not a static model in which we perpetually do identically the same thing.

I just say, in addition, that having made these arguments philosophically, let me make some that are very practical. I appreciate that there are Senators who sincerely want this amendment passed and a great number of us who sincerely want to be helpful to the dairy industry. But I think it ought to be known at the outset of this debate that the amendment that is being offered is very unlikely to become law. We know that because a letter as recent as November 20, 1991, mailed to the Honorable ROBERT DOLE, Republican leader, from Richard Darman, Director of the Office of Management and Budget, says in its final and concluding and most specific paragraph:

> We understand that there may be a floor amendment to attach the supplemental bill dairy provisions which would raise dairy price supports and increase the price of dairy products to consumers. These provisions, of course, are unrelated to the subject of supplemental appropriations. The President's senior advisers would recommend a veto of the bill if such an amendment were adopted.

This is not news, Madam President. The President's advisers, Mr. Darman; Secretary of Agriculture, Mr. Madigan, have throughout the year stated clearly if a price support increase were adopted, they would recommend a veto. That has been consistent. That is still the case.

So, in many ways, Madam President, we are proceeding today to what may be more accurately termed not a legislative proceeding but a public relations opportunity. A great number of Senators will find it useful to be recorded on this vote and to make statements on this supposed help for dairymen. But I think all Senators and the public generally should know that this is very likely not going to be accepted in the conference with the House, and if it should be, the entire appropriations bill will be vetoed on this account alone. This is an unacceptable result for the Congress in my judgment. So, Senators start this entire exercise today with a choreographed script, in which a number of Senators make a plea, make their case, and issue their press releases, confident that whatever the merits or demerits of this amendment might be, it will not become law and, as a matter of fact, dairy farmers will not be helped one whit.

I make this point very clearly, Madam President, because in the Agriculture Committee—my staff has been working with the staff of the distinguished chairman, the majority and minority staffs together, to try to devise legislation that would have incorporated a paid diversion program. This compromise, in fact, was acceptable to the Secretary of Agriculture by letter to the committee. That effort unhappily has not succeeded. And as a result, elements of the paid diversion are in the chairman's amendment today but with an increase in the support price which I would say is the fatal flaw.

Mr. LEAHY. Will the distinguished Senator yield on that one point?

Mr. LUGAR. I am happy to yield.

Mr. LEAHY. Would the distinguished Senator agree though, that on the paid diversion plan, that we have a bill before us with just that item? Unanimous consent has been requested to bring it up, and I think we would all acknowledge within a day or so of the end of the session it could come up only by unanimous consent.

Would the distinguished Senator from Indiana agree that there are at least four holds from his side of the aisle blocking that from coming up?

Mr. LUGAR. My understanding is that the chairman may be correct. I do not know the number, but there are persons certainly who have put holds on that legislation.

Mr. LEAHY. Madam President, if the Senator will just yield further for a moment, I would note and I concur in the fact that he and his staff have worked with me and others to put together a diversion program that is acceptable to the administration. My understanding is it would be signed into law if we could pass it.

I would hope, no matter what happens on this amendment, that those

who are blocking that diversion program will allow it to go forth. It will help, it will help a lot more than all the great speeches all of us give—myself or anybody else—for or against, to help the dairy farmers, and the diversion program would help. I hope those Senators blocking it will allow it to go forward.

I thank the Senator from Indiana for his typical courtesy in allowing me to ask that question.

Mr. LUGAR. I thank the chairman and I appreciate the point he is making and his careful and accurate description of our cooperation on behalf of the dairy industry.

I would point out, as the chairman knows, that this is an issue that has continued for a long while and one of the problems with our compromise position is that it is easily blocked by those Senators who may or may not agree with us. But, nevertheless, the pending amendment is broader than our compromise by including more than something more than a paid diversion. That is why I rise to oppose it.

I would say that a part of the complications, as the chairman knows, is that there is strenuous opposition to this amendment from the National Cattlemen's Association.

I wish to, at this point, quote paragraphs written to me by Don B. Smith, president of the National Cattlemen's Association, in which in the second paragraph he says:

> Historically, cattle producers have strongly opposed dairy programs that artificially encourage or mandate the slaughter of dairy cows in order to reduce surplus milk production. Clearly, the proposed milk diversion plan, like the 1983 diversion program and the 1986 Dairy Termination Program, falls into this category.
>
> NCA has been, and continues to be, a strong advocate for allowing the market system to work. The intent of both the 1985 farm bill and the 1990 farm bill was to allow market forces to play a more important role in the function of the major government commodity programs, including dairy.
>
> The milk market supply and demand forces are working. In the fall of 1990, milk prices were at near record highs. Milk production increased to meet demand. Unfortunately, too much milk was produced and milk prices fell dramatically in the spring of 1991. In response to this, dairy cow slaughter increased, and in late summer of this year, the price of milk has increased. Currently, milk production has decreased to such a level, because of additional dairy cow slaughter, that it is estimated that only 1.5 billion pounds of milk will have to be diverted in 1992. This leads us to believe that if the current dairy program is allowed to work, then supply, demand and price equilibrium for milk will be accomplished in the near term.

I agree with the analysis of Mr. Smith and of the cattlemen. As they point out, the dairy program has been working.

When we last debated dairy, on a supplemental appropriations bill, the dairy price had fallen to the $10.10 price support floor. Now, dairy prices have risen to $12 per cwt. Supply and demand has worked. Cows as a result of low prices this spring, were culled, less milk was produced and prices rose. That price action occurred without the sought after changes to the dairy program.

I would simply point out, Madam President, there are certain other implications of this proposal, aside from the impact upon agricultural producers, that must be very carefully considered by this body. The distinguished chairman of the committee, Senator LEAHY, has mentioned that after disposition of this amendment, he will attempt to regain the floor to offer an amendment dealing with the retail price for purchases, made under a program designed to protect less fortunate women, infants, and children, the so-called WIC Program.

The chairman's interest in this amendment is obvious. Under the dairy proposal before us, very substantial problems are going to occur in the WIC Program if the price of milk goes up—and the U.S. Department of Agriculture estimates show that it will go up substantially.

So the chairman's plan is to cap or fix the price of milk, in retail stores throughout the country, to engage in the most egregious form of price control in order to try to remedy problems created by the price increases contained in this amendment. It is an extraordinary combination.

Madam President, I hope that Senators and the American public understand this point before it is too late. In short, if one is determined to rig prices by Federal statute, and then is reminded that the attempt hurts poor people, is the proper response to rush around and try to correct the problem by demanding that grocery stores sell the product to these people at a fixed price? I think not.

In fact, throughout all of the argument today Senators have suggested that the marketplace only works in one direction—toward higher retail prices. Some Senators state that lower dairy prices do not mean lower consumer prices. However, most Senators, at least who are scholars of this subject, appreciate that the lag factor between farmgate prices and retail prices, is a substantial one. But the market eventually reacts.

But even if it did not react, Madam President, playing the devil's advocate, are proponents of this measure really suggesting that the Senate in its desire to help 160,000 dairy producers ought to establish price controls in retail markets, controls designed to take away profits of those enterprises?

Or, Madam President, do Senators really believe that somehow we should, in a very perverse way, decide to start capping prices of milk for WIC recipients in retail markets? Do we believe that retail markets would not raise prices on other items to offset milk losses in order to stay alive?

Indeed, Madam President, why in a parallel situation, should not retail grocery stores come to this body and point out that their costs have been rising, their revenues, may be falling, and that there are more retail grocery stores in the United States of America than there are dairy farmers?

I have yet to hear during an Agriculture debate a serious proposal to make certain that every one of those stores remained in business and remained whole. As a matter of fact, we have not heard that argument made for anyone; for small manufacturers or entrepreneurs who are trying to create jobs in America.

Maybe, Madam President, what is sauce for the goose should be sauce for the gander: if we are to take the proposition that costs for dairy are high and we must in fact meet those costs by providing income. We should consider applying the same thing to almost any business in America and have a very strong number of adherents argue the point seriously.

Madam President, let me just sum up the situation. We have in front of us an amendment, and I have stated as clearly as I know how that the authoritative voice of the Office of Management and Budget, on behalf of the administration, says that this amendment will be vetoed if it finally arrives at the White House in this form after the conference between the House and the Senate. Therefore, in my judgment, this debate is important as an expression of our interest in the dairy industry, but the debate is not going to have a conclusion that will help dairy people.

If we had been serious about that situation, Madam President, we would have adopted legislation in the Agriculture Committee, and would have come to the floor in due course some time ago, that would have met with at least some agreement by the administration. And, as I have outlined, that formula has been found. However, as the distinguished chairman has pointed out our activities in attempting to work within the committee have come very late and, as a result, it is not surprising they did not find the unanimous favor which perhaps they need at this point.

Second, I would point out that the administration has indicated throughout the year that it has been more than willing to discuss this subject. In fact, the distinguished chairman and I have discussed the subject many times with Secretary Madigan and others. As a result of these discussions a number of administrative steps have been taken by the administration that I would argue strongly, under girded the rise in the price of milk this year without disturbing the support price or other mechanisms provided by the farm bill

of last year. I contend that the farm bill is working as well in the dairy industry as it is for other commodities.

Finally, Madam President, we have other interests that are clearly at hand. The distinguished senior Senator from Montana, Senator BAUCUS, has spoken, and Senator BURNS, the distinguished junior Senator from Montana, will soon speak, discussing very real problems that cattlemen have when we delve into one sector of the agricultural economy and ignore others.

I would say finally, Madam President, that however one cuts it, this particular amendment, if adopted, will play havoc with the programs now run by the Food and Nutrition Service of the U.S. Department of Agriculture.

Let me put in the record the estimates of how much damage. USDA estimates that the legislation originally passed by the Senate Agriculture Committee, H.R. 2893, would raise the cost of programs run by the Food and Nutrition Service by an average of $277 million per year during fiscal years 1993 to 1996. During fiscal year 1992, an additional $100 million in costs will be imposed not only on the Federal Government but on nutrition program beneficiaries since program benefits will not yet have been indexed to account for the higher milk prices.

In addition, an average of 91,000 fewer people per month would be served by the Women-Infant-Children [WIC] Program according to USDA.

The amendment before us today admittedly would marginally cut that injury, because it does not impose the nonfat solids requirements of H.R. 2893. That has been deleted from the amendment today. But the effect would still be significant.

This amendment raises 1993 Federal Nutrition Service spending by $164 million, according to CBO. The price of milk would rise 17 cents a gallon in 1993 according to their estimate. The price support increases also mean higher consumer prices. The higher support levels will raise consumer costs by an average of $1.5 billion per year.

Madam President, if in this Chamber someone were to come in today and suggest a tax increase of $1.5 billion, Members would run for cover. That is not only unfashionable, that is totally unacceptable to Members and to the American public at this point.

Yet, Madam President, in the course of a very civilized debate to help a sector of our agriculture industry, if the product of our labors was to pass this amendment and it finally became law, I submit that this would, in fact, be a hidden tax on American consumers of $1.5 billion. That is a substantial hidden tax.

Let me say, Madam President, one can argue back and forth as to who is responsible. Senators have argued that the increase in dairy prices is not the culprit. After all, it is the grocery stores who are not lowering their prices fast enough, when the prices for dairy farmers go down. They are culpable.

Madam President, that argument is insoluble, in that grocery stores all over America use various products as loss leaders to get people inside the store. In fact, we applaud the long list of price cuts in the weekly shopping advertisements, dairy products sometimes among them, sometimes not.

The costs of this program, however, cannot be hidden. They are there. And they may be realized by dairy farmers, they may be realized by retail merchants, but they will not be realized by the American people who pay the $1.5 billion.

I would hope, Madam President, that the amendment would not find favor with Members today. I am hopeful, as a matter of fact, that we will not proceed down this course of raising the support prices.

I would say in fairness to all of agriculture in America, Madam President, that our committee strove last year, under the dedicated leadership of our chairman, Senator LEAHY, to fashion a 5-year farm bill. And one reason we wrote a bill for 5 years was to give some sense of stability. It was a grand bargain of sorts among hundreds of agriculture and consumer interests in America; a contract, in essence, about what was fair, as best we could fashion it at that point. I make no claim that the target price for corn is precisely the one that I would have wanted, or the marketing loan for soybeans.

These were compromises, reached over an entire year of debate, in which all parties were heard.

Now, Madam President, today we hear one segment of the agricultural industry in our country—an important one, but a segment nonetheless—saying essentially: We want better treatment. We want to ignore all of the agreements made with others and advance our own cause. At least the proponents on the Senate floor make that claim.

I would say, Madam President, that in my State there are 5,000 dairymen and that is a fairly large number. If the Chair would look down through the roll of the States, and see which ones have dairy farmers, I suggest the 5,000 that we have in Indiana, as part of the 160,000, are significant compared to the population of our State. And I visit with them a great deal because of my interest in agriculture, my interest in my own farm. I have contacts with people in the Farm Bureau, the Farmers Union, the Grange, and other organizations in our State.

Attitudes are very divided on this issue. I think it is fair to say that some dairy farmers who have high costs and who are genuinely fearful that they will not be able to continue, are prepared to support almost any amendment that would offer relief. And I understand that.

I would also say that a large number believe the Federal Government should not be in this business right now of jiggering up the Federal program for dairy farmers.

As a matter of fact, Madam President, a growing sentiment among dairymen in my State, and among farmers generally, amounting to somewhere between 35 and 40 percent, is that the Federal Government ought to get out of agriculture altogether.

I suspect at another time, if we were going to debate dairy again, I would want to offer for consideration by this body the thought that, as opposed to an incessant number of amendments, always attempting to do something to jack up prices arbitrarily, we ought to give careful consideration to the possibility of eliminating the dairy program altogether, and allowing supply and demand in this country to work in that industry.

My guess is that if we did so, fresh, healthy milk would come to the American people for less money. There would be a substantial consumer income gain from such a move. And as a matter of fact, such a course would be favored by a very large percentage of dairymen—perhaps even a majority—once they thought through all the hassles of the marketing orders and the arcane regulations that now put a straitjacket on this industry.

Madam President, this is late in the session, and we are debating an amendment that I believe is not going to be successful. Therefore, I am not prepared today to argue the entire philosophy of the program, but I will say: This is bad policy and an amendment that should not be passed.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The sponsor of the bill, Senator LEAHY.

Mr. LEAHY. Madam President, I know the Senator from Montana wishes to speak, and I will yield the floor in just a couple of minutes.

Madam President, we have had a number of people ask when we might come to a vote. With the primary opponent of the amendment on the floor, and with the primary proponents of the amendment on the floor, what I am going to do is propose a unanimous-consent request. I will not do it yet. But, I am going to propose a unanimous-consent request that we vote on this amendment at 1:30 today, and, that I be recognized 4 minutes prior to that vote.

This is what I intend to do. I wonder if, without losing my right to the floor, anybody wishes to indicate anything about that?

Mr. KASTEN. Madam President, I have been trying to survey our side, both opponents and proponents of the Leahy-Kasten amendment. I know the Senator from Montana wishes to speak

for maybe 10 or 15 minutes and I know the Senator from Rhode Island wishes to speak, he has indicated, for 5 minutes.

It seems to me most of our proponents have spoken. There is a possibility the Senator from New York might want to speak, but that will not be for an extended period of time.

So I hope we can agree to something like this. I know the leadership is now meeting over on the house side, trying to determine the schedule for the weekend and early next week. Their hope was we would not vote before 1:30. That might be a way to expedite the process.

Mr. LEAHY. Madam President, if I might comment on that. I checked to see on the schedules of both the Republican and Democratic leaders, and others who had meetings. It seems that 1:30 helps everyone the most.

Let me make the unanimous-consent request, and then I will yield the floor if it is accepted.

Mr. LUGAR. Will the chairman yield for a moment before making the request?

Mr. LEAHY. Yes.

Mr. LUGAR. I noted the chairman was proposing 4 minutes of final summation before 1:30 on his behalf.

Could I reserve 4 minutes before the chairman at that point?

Mr. LEAHY. Certainly. What I would do, then, when I make the unanimous-consent request, is make it for 1:35. Let us state then, at 1:35 the Senator from Indiana be recognized; at 1:30, the Senator from Vermont, the proponent, be recognized.

I now do ask unanimous consent—another suggestion has been made. Let me do this.

At 1:20, the Senator from Indiana be recognized for 5 minutes; at 1:25, I be recognized for 5 minutes; and at 1:30, the Senate vote on the pending amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Vermont?

Observing none, the Senator's request is agreed to.

Mr. LEAHY. Madam President, I will yield the floor in just about——

The PRESIDING OFFICER. The Senator from Montana.

Mr. LEAHY. Madam President, I still have the floor.

The PRESIDING OFFICER. I am sorry; I thought the Senator had yielded the floor.

Mr. LEAHY. I am going to yield it, Madam President, literally in a matter of seconds.

I would just note, in response to one item we are addressing, whether this legislation might raise retail milk prices. I do not feel it would raise prices. We have given credits to the Soviet Union in the amount of several billion dollars, which is really a disguised foreign aid gift to the Soviet Union. That is going to raise prices. That is going to raise prices right here. That will be a tax on the American people, because we are going to have to pay for it. It is likely the debt will never be paid back.

We are able to do that in a moment. But when it is something that might help our people right here at home, it seems to me to be a matter of dispute.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I thank the floor manager for this amendment and the time to speak on it, and the ranking member on the Agriculture Committee for his very wise words this morning.

I also applaud those who champion the cause of their constituents, especially on this issue. I do not think there is anybody who has championed that cause any better than my colleague, Senator JEFFORDS.

It seems as though everytime we get into a debate about what we can do for our basic interests, particularly in agriculture, it is pretty hard to do anything for one group that does not impact another. It has been a pattern since time immemorial in agriculture that, yes, one segment has always thrived at the cost of another.

Any time that you are in the business of producing a raw product, a raw consumer product, you have a lot of problems. Not only is end price—what we get for our product—very important, but also what it costs us to produce it.

I think the argument has been made very well today about what it costs to produce that particular product. I am wondering if anybody has ever given any thought to what goes into that cost of production. Again, I go back: In the production of a raw product, you are subject to the whims of the consumer and the whims of government.

You are subject to the whims of the processor; you are also subject to the whims of government; you are also subject to the whims of retailers in the normal process of things and to the whims of government. Government is involved every step of the way.

We in Montana have dealt with this milk issue for our dairy producers in what I think is a very sound way. It may be the model of the future, but we have a milk control board. Of the consumer dollar, so much goes to the distributor, so much goes to the processor, and so much goes to the producer, and they agree on those prices. No matter where you live, you pay the same for a gallon of milk, whether you have it delivered to your doorstep fresh every morning or you drive down to the store and pick it up.

That is not what we are talking about today. We are talking about a pay diversion that has been recommended in this legislation. That is voluntary, nothing mandatory about it, and I understand that. The best figure we can get is it would take 70,000 head of cattle above the average to even make a dent in lowering the production. I do not know how many people who are standing on this floor who are in charge of making policy for this country have ever sat in an auction market and seen a program go into effect in Montana, sit in an auction market and see cow prices absolutely go through the floor, $5 to $7 a hundredweight on butcher cows, in 15 minutes through the auction, rattling right through there.

There are those who would say that it had a very short life, the quiver in that market went down, it did not last very long. Let me tell my colleagues, it lasted for a full year for those who had livestock on the market that day. Because in this business, we do not get paid by the month, we get paid whenever we sell our product, which is usually once, maybe twice, a year. You take $7 a hundredweight off a cow that weighs from 1,000 to 1,400 pounds and you have taken $70 a head to $120 a head off that animal in 15 minutes. The salvage value on butcher cows is as much a part of the management and the overall economic health of that ranch as is anything else. I imagine with our dairy farmers that is true, too.

What is the salvage of a cow once she has outlived her usefulness as a producer on the farm? Twenty thousand a month does not sound like much, but they want to get the annual surplus down under 4.5 billion pounds a year. If we do not hit the 4.5 billion and, say, production would go to 6 billion, the assessment against the milk producers to pay for this program would be refunded to whom? The dairy producer, 30 to 40 cents a hundredweight over a year's time, maybe 2 years' time. Say they go over 6 billion. And that is the USDA's penalty for being wrong. The USDA does not own any cattle. They are on the farms. If I was a dairy producer sitting out there and I could see 30 to 40 cents a hundredweight coming back to me after 2 years, I would make sure that they were wrong. My production would go up. No. 1, I am going to get paid another $1 a hundredweight to produce, plus at the end of a specific time, I am going to get maybe 30 to 40 cents on top of that.

I do not think that is being very fair with the taxpayers of this country. It sure is not fair to the dairy producer once it is seen and evaluated and it is done away with and all at once he says, Government has changed their mind, the policymakers said it had to go, and the rug is pulled out from under him. Not a very well thought out policy.

That is the meaning of it. The impact on the beef producers and the red meat production will be substantial. There

will be impact because anybody who has done business with those people who process cattle or livestock will tell you that the real market does not mean much, but if the psychology is on your side, that is when you use it, and that is the tool that we as producers have against those who process our product.

The psychology in the market is what moves it. I have heard a lot of people say that you buy on facts, but you sell on emotions. And it is true. That is the real world. I do not know how many people who are involved in policymaking have actually seen this happen. I have. My route to this body is a little bit different than some folks who stand here and try to think on the policy, how it affects the business of a farmer. But we make these decisions at the cost of another segment of agriculture, and that is not fair. We have seen the psychology in the cattle market go down.

If you want to see or hear some great figures, you realize in 1940, we had 133 million head of cattle in this country. When the inventory is taken in January, we will have about 99 million head of cattle. And do you realize that that is a 30-, 35-percent decrease in numbers, but we are only 2 percent down in total red meat production? Which means our beef industry has done a pretty good job of becoming more efficient, not only with feeding and the kind of animals that they are breeding and the kind of animals that are going into the feedlot.

So what does it do? It affects all of the management and the management mix not only on the dairies of this Nation, but it also affects the management marketing practices, the management mix of the beef producer. I do not think either one of those segments deserve that. It is just as hard to make a living in the beef business as it is to make a living in the dairy business. I think we milked cows at one time. I am not sure milk did not pay for the old farm down in northwest Missouri. It is a tough way to make a living. So we know what it is like. Cows do not take Saturdays and Sundays off, Christmas, New Year's Day, and those things. The hours are the same; procurement of feed, investment in equipment and material, but still with some diversity.

But let us think about what we have done in order to hurt this dairyman more than anything else. Every time we talk about livestock, we talk about environment. How many rules and regulations have we passed out of this body that had a direct effect on how we manage our land and water and, yes, the environment in which we can handle livestock?

Every one of those rules and regulations cost money. The Government did not pay for it. It just did not come out of the air. The producer had to pay for it. When he pays for that, that adds to his cost of production. He cannot go to the marketplace and say, "OK, I put in a new milking parlor and I invested in some higher producing heifers. I have them on line and in production, and it cost me so much money, and now I must have more for my end product." He cannot do that because you know what that processor is going to say? "Big deal, milk is only $2.13 cents for a gallon. That is all I can get for it at the grocery store." So I cannot give you any more for the raw product. I can pay you a little more if it has different qualities to the milk, butterfat and this type thing. But I cannot pay you any more for the raw product.

General Electric, Westinghouse, big corporations, they say we have saturated the market on toasters and so we are not going to make any toasters next month. So they lay off people and they slow down the supply line until the market comes back to where they can have a lever in the market because they can control production. But on the farms and ranches of America, we just cannot shift gears and turn it off next Monday morning; and then the next Monday we just cannot shift gears and turn it on, because the plans to make a farm or ranch work are 2 and 3 years way out on the bench on how we buy, how we sell, the numbers we keep, the money it takes to manage our farms and our ranches. So it is not just like a spigot. You just cannot turn it on; you just cannot turn it off.

That is why this is bad policy, because it changes everything for the larger segment of the business called agriculture. Sure, feed producers, supplement suppliers, small towns have to retool because it is turned off or it is turned up.

We can say that the CRP program is the main thing, the conservation setaside is the most devastating thing that ever happened to our smaller towns. They set aside acres and nothing happened. It takes too much machinery to operate them. The farmer could bid his land into acres, the Government pays him for not producing and he goes onto CB&M rotation.

I would work very hard as a diary producer to make sure that this program failed because at the end of the year if we are over 6 billion pounds in surplus—and that has been the purchases by the CCC—then this assessment that we have assessed them on, this is returned to the producer.

Mr. President, I would also have some comments with regard to the WIC Program, of which I am very supportive. I was a county commissioner. No matter what we do in the Senate, the men in the trenches or the women in the trenches of this country called county commissioners are the ones who finally deliver the services. They are administered under county programs as predescribed by this body.

If you put a cap on WIC, which does more good for more people in our country at this time than probably any other single program as far as nutrition, concern for women, infants and children—tremendous program—but if you say they can only pay so much for milk, does the processor have to sell them the milk? It is a free market system. You have capped their ability to procure what they need for the people that they serve.

And if it stays at that level, then we are locked into paying a support price on a product forever the market will not go up because of the psychology in the market. I cannot emphasize that too much. Once the psychology is in the market, it is there, and it takes its toll to the producer and, might I add, to consumer.

So policy has to be that we step back and really evaluate what we are doing.

This is bad policy, not well thought out in its effect upon the farm and ranch communities across America. And, yes, our policy should be that this country should enjoy the same security from hunger, for shelter, for something to wear every day. I think some of our policies, most of our policies ensure that the man who can make a farm and ranch tick and go are designed that way. That gives us that little insurance policy that we do not have a shortage in food. But this disrupts all of that.

So the impact would be greatly felt by both ends with a lot of players in the middle, but they get to say very little.

Mr. President, I would add that should this amendment be successfully added to the supplemental, I have an amendment that I would offer to it. I think we, as policy members, must really think about what we are doing to the agricultural producers—not just the dairymen—across this Nation.

I thank the Chair. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. CHAFEE addressed the Chair.

Mr. LEAHY. Mr. President, I see the Senator from Rhode Island on the floor. I will yield to him in just a minute or so.

Mr. President, we have heard so much on this floor in opposition to this amendment that I sometimes wonder if people are talking about the same issue.

We are asked, why are we adding it to this bill? I will tell you why. Because several Senators objected to bringing it up separately. That is why. We have this sort of innocent look: Why is it on this bill? Because we tried to bring it up as a separate item and it was objected to.

I want this to go into law. I do not want to go through this exercise so we can all go home and say, "We gave

wonderful speeches for you men and women on the farm; unfortunately, we do not have anything to bring to you." I want to pass this bill.

Look at this chart of the milk price index. People want to see what is happening. Here is what is happening on the farms. Here is what has happened since December 1984, and it has gone down to here. And we are saying we want to protect the consumers. Who is protecting the farmer? They are consumers also.

The fact is the price stays right up here for the processor, it stays right up here at the store, but it is down here for the farmers. When I go grocery shopping with my family, when I go in the grocery stores in Vermont or in Washington or in Virginia or anywhere else, the price of milk is still up there. It is still the same as it was months ago. But the farmer is getting an awful lot less.

What we are trying to do is give more to the farmer without costing the taxpayers. This amendment does not cost the taxpayers anything. I do not hear people objecting to the fact that there is $1.57 billion in here for crop farmers. I do not hear anybody objecting to that. That is real money. That is real money.

The fact is we are trying to change this program, without costing the taxpayers any money, to keep dairy farmers from going out of business. The fact remains that the dairy program has been cut substantially by hundreds of millions of dollars. But we should at least let dairy farmers make a living.

You know, some of the same people that objected to giving help to the dairy farmers, even though it is not going to cost the taxpayers any money, are the same ones that are going to support $1.75 billion for other crops. If you want to be consistent and object to all farm programs, do so. But do not play games. Do not say, well, we will object only for dairy farmers but we will throw those huge subsidies out for others.

Also, do not come on to this floor and tell us how wonderful it is that the administration has just given a $4 billion gift of foreign aid to the Soviet Union that the taxpayers are going to pay for. We can help out those poor farmers in the Soviet Union. We can give them a taxpayers' gift, even though it is going to raise our taxes and the price of food in this country—but you say do not do anything to help our own farmers. Do not do anything to help the men and women on our own farms, whether it is in Vermont, Wisconsin, Minnesota, or anywhere else.

Let us get some of these things in perspective. If we are going to help the farmers of Russia and Eastern Europe, with our tax dollars, let us do something here at home.

I yield to the Senator from Rhode Island. I would like to hear his views. Thank you.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Vermont yield? The Senator from Rhode Island.

Mr CHAFEE. Mr. President, I had reserved 5 minutes. I do not have to have it yielded to me. I am entitled to it.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I am disappointed in the last barrage from the Senator from Vermont, Mr. President. We can go through this business of raising the hobgoblin of help to the Soviet Union, help to anybody else, and therefore that entitles us to give away any sum of money we want domestically.

I noticed that when the Senator from Vermont loosed his barrage against helping the Soviet Union, he did not raise anything about $4 billion to Israel, for example. He did not comment upon the $10 billion guarantee to Israel, or what we are doing elsewhere in foreign aid.

So if we are going to talk foreign aid, let us just not concentrate on the Soviet Union and say that because we are going to do something for the Soviet Union that entitles us to embark on any giveaway program that we can conceive.

Mr. President, there has been much talk this morning about the dairy amendment having been adopted in March by 60 to 40, so therefore, this is a foregone conclusion. I do not think that is necessarily so.

I would like to point out that after the vote on that amendment in March, there are a whole series of editorials that appeared, that were entitled, for example, in the New York Times, "Milking Poor Families; "or in the Washington Post, "The Senate: Wrong on Milk; "or in the Providence Journal, from my home State, "Green Mountain Muddle."

So I do not think we should consider this a forgone matter. I hope that more attention will be called to the effect that the adoption of such an amendment would have upon poor families in the United States of America.

I particularly would like to concentrate if I might on the cost of what this amendment will cost to nutrition programs over the next 4 years.

There is not a Senator on this floor that I suspect is not in favor of food stamps, is not in favor of child nutrition programs, is not in favor of WIC, is not in favor of special milk programs. The cost to all of those programs which we are always seeking money for, we always ask for additional money, we always fall short, the cost of these programs if this amendment is approved will go up over the next 4 years by nearly $1 billion $928 million.

Every year I have worked in tandem with Senator DECONCINI to increase the WIC money. My colleagues have now come to expect us to lobby them for increased funds for WIC. This year, the Senators responded overwhelmingly, and 86 of our colleagues, nearly nine-tenths of the Senate, joined us in writing to the Appropriations Committee to urge a boost in WIC funding.

So we achieved something. We did not get it all. But we got some increases. Now what we gave with one hand we are apparently proposing here to take away with the other hand by increasing the cost to the WIC Program and thus providing less of the WIC funds, making less of the WIC funds available for poor women in our country.

That is why the National Association of WIC Directors have grave concerns about this amendment. I know the sponsor of this amendment has noted that he will offer an amendment later on to help protect WIC. I think we all ought to look very closely at that amendment to see if it really accomplishes the goal of protecting WIC, the Women and Infants Nutrition Program.

I would note that even if that fix takes place, and we are not sure that it will, I suspect that it will not, it will not help the other nutrition programs that I just mentioned. Clearly, it does not help the consumers.

CBO estimates that under this amendment there will be an increase of 18 cents per gallon over the current $2.50. That is about a 7-percent increase. Some may say that is insignificant. Well, it is not insignificant to the poor families that are trying to purchase milk, trying to keep body and soul together.

Under the Leahy WIC amendment that is going to be proposed, as best we can ascertain as of now, the result of it will be to cause grocers to quit the WIC Program. And in another way it will hurt WIC because it will only protect milk; that is, the direct sale of liquid milk. It will not deal with cheese and infant formulas that of course stem from the original cost of the milk.

So it will only be a partial remedy. It will not be a total remedy.

I have sympathy for the dairy producers. We have some in our State. I am anxious for them to make a living. It is important that they do that because dairy farmers are important, in a whole host of ways. But I am convinced that we have to build into this amendment some real protection for the WIC Program, and until that is made possible I certainly cannot support it.

Mr. President, I ask unanimous consent that these editorials that I mentioned be printed in the RECORD.

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

[From the New York Times, Mar. 21, 1991]

MILKING POOR FAMILIES

What's one of the first things you'd do if you wanted to devastate poor families with young children? Raise milk prices. That's exactly what the Senate has approved, without

hearings, as an amendment to an emergency appropriations bill. The provision would raise the price of whole milk by as much as 26 cents per gallon and low-fat milk by as much as 40 cents per gallon.

The sponsors, led by Senator Patrick Leahy of Vermont, contend that higher milk prices are needed to save dairy farmers victimized by a 25 percent drop in prices during the past year. The plight of dairy farmers is real, and some may go broke if milk prices don't recover. But their plight is not unique; millions of other Americans have been victimized by recession. Besides, if Congress wants to bail out dairy farmers, there are a lot of better ways than to take milk away from poor children.

The sponsors say their bill won't increase consumer prices very much because it affects only the price paid to dairy farmers. The basis for this claim is that because milk processors and retailers have successfully avoided passing plummeting raw milk prices on to consumers, they will now charitably choose to absorb the new price hikes. That's a novel but unconvincing assumption. The amendment would also raise the cost of food stamps and other Federal programs in ways the sponsors only partially recognize and offset.

It's no mystery why Senator Leahy wants to help Vermont dairy farmers with higher prices, whose origin few consumers will understand, rather than with higher taxes, which everyone will understand. What's odd is why 59 other senators, many from nondairy states, went along with this outrageous affront to low-income families.

[From the Washington Post, Mar. 21, 1991]

THE SENATE: WRONG ON MILK

The catch-all money bill now making its way through Congress is supposed to be confined to "dire emergency supplemental appropriations." But this is a joke. The Senate has turned its version into a vehicle for increasing farm price supports. An amendment passed 60 to 40 Tuesday evening would lift the incomes of both wheat and dairy farmers. The wheat provisions are bad enough—further export subsidies to reduce the price of U.S. wheat abroad after the government has already paid to raise it here at home—but the dairy provisions are the worst.

They would raise the price to the farmer of the milk you buy in the supermarket by roughly 25 percent. Proponents, led by Agriculture Committee Chairman Patrick Leahy of the dairy state of Vermont, say the large increase is justified because dairy prices have fallen a like amount in recent months and without the income, parts of the industry won't survive. At the same time they offer assurances that only part of the increase would be passed along to consumers (the rest would be absorbed by middlemen) and that the provisions would not affect the taxpayer or the deficit at all.

It may be true that in the short run part of the price increase would be absorbed and the budget effects would be minimal. A higher price would nonetheless be regressive, the more so because it would not just pluck money out of the budgets of poor people but could reduce the purchasing power of the government's supplemental feeding program for lower-income pregnant women, infants and children, an event Sen. Leahy was working to avoid.

The lasting damage would not be an income transfer; it would be structural. Dairy price supports used to be too high in this country. The 1985 farm bill put them on a more rational basis. The secretary of agriculture was required to adjust them every year—down to discourage producers if it seemed that production might otherwise be too high, up to bring forth more milk if likely production seemed too low. The mechanism worked—but in last year's farm bill Congress saw fit to change it so that supports can't fall beneath a certain floor that happens to be where they are today.

If that elicits a costly surplus for the government to buy, the legislation envisions a shift to production or marketing controls. A farmer will need the equivalent of a license, if not to milk a cow, at least to market the milk. The price increase the Senate would enact makes such an unwieldy result all the more likely. The price of milk is already a federal artifact too far removed from the useful reminders of supply and demand. This would make it more so. The administration is trying in the world agricultural trade talks to reduce the costly role of governments in agriculture. The Senate proposes to head in the opposite and wrong direction.

[From the Providence Journal, Mar. 22, 1991]

GREEN MOUNTAIN MUDDLE

Sen. Patrick Leahy of Vermont is a man of impressive flexibility. With much fanfare, the Senator has introduced a bill to crack down on alleged anti-competitive practices by three big drug companies that make most of the infant formula sold in the United States. And who could disagree with strong action if, in fact, the companies are engaging in these activities? But read on for a more ambiguous performance by the Senator.

First, what appears to be his principled side: Mr. Leahy, the Democratic chairman of the Committee on Agriculture, Nutrition and Forestry, says that questionable bidding practices by these concerns (Ross Laboratories, Mead Johnson and Wyeth-Ayerst) cost taxpayers $168 million a year, and keep 270,000 poor women, infants and other children off the government's highly effective WIC (Women, Infants and Children) nutrition program, which buys a third of all infant formula sold in the country.

The Senator asserts that the companies may be engaging in price-fixing, losing the government millions of dollars that could be going into the WIC program. The companies have repeatedly denied these allegations.

If the charges turn out to be true—and the Federal Trade Commission, among others, is investigating them—then the practices should be stopped immediately, and the perpetrators punished. The WIC program does such good work that any weakening of its ability to help the poor is distressing.

But now the Senator's more practical side: While Mr. Leahy has been quite properly looking after the interests of the poor, he has also been looking after the interests of the dairy industry, which might not be entirely the same. The Senator has sponsored a measure to raise the price of whole milk by as much as 28 cents a gallon, and low-fat milk as much as 40 cents a gallon.

It's hard to think of any measure that would hurt poor families with young children more—but Senator Leahy, in this instance, seems most concerned with pleasing a major economic force in his lovely state (and lovely, it is true, partly because of the presence of this force): The dairy industry.

Now, it is true that dairy farmers are suffering from a recent sharp drop in the price of milk. But the way to deal with that is not through gouging the consumer, and especially poor consumers. Other subsidies to dairymen should be considered instead. Meanwhile, a larger problem—that there's no economic justification for America to have as many dairy farmers as it has—will, it seems certain, be circumvented as skillfully by Senator Leahy as he has navigated the contradiction described above.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, there are only two people who had reserved time on this amendment, the Senator from Indiana and myself, I advise the Senator from Rhode Island. I will, because it would very close to the time consent of the Senator from Indiana, withhold until my time, to address some of the statements made by the Senator from Rhode Island.

I am glad to hear that he also is a supporter of WIC. As one who has carried the WIC bill every year since I have been here, I will be glad to have his help any time he would like to come and join us in getting supporters for it.

I am sure he is concerned about the few dairy farmers in his State. I did not hear objections from him when the banking bill went through, whatever effect that might have to help other interests in his State, but everybody has to decide what is important.

I yield the floor.

Mr. DIXION addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. If the debate has concluded, I have waited here patiently. I want to talk on another subject. In all fairness, if anybody wants to talk further on the dairy issue before the vote, I will wait until after the vote.

Mr. LUGAR. If the Senator will yield, at 1:20, the Senator from Indiana is to be recognized for 5 minutes for a presentation.

Mr. DIXON. Then, of course, I would not proceed at this time.

Mr. SHELBY. I rise today in support of the Leahy amendment to the DIRE Emergency Supplemental Appropriations Act. This legislation comes before the Senate at a crucial time, in the last days of this session of the 102d congress. Yet the timing of this bill is all the more crucial for America's family farms.

Mr. President, family dairy farms in our country have suffered from a 25-percent reduction in prices over the last several months. While many segments of the economy are feeling the effects of the current recession, few industries are suffering to the extent of the agricultural community.

The debate over dairy legislation began in the Senate this spring as several bills were introduced. While each of these efforts had the same goal—the preservation of the family dairy farm—reaching a consensus has been difficult. Moreover, legislative efforts on behalf of the dairy producers have been trained by veto threats from the bush administration.

The Senate Agriculture Committee has reported a bill that, I believe, represents the best interests of the dairy producers and the consumers at large. I applaud the efforts of chairman LEAHY and his colleagues on the committee. This bill provides for a reasonable price support level as well as voluntary diversion that is more acceptable to all parties involved.

This legislation will also address another fundamental need, Mr. President, disaster relief. America's farmers suffered extensive losses in 1990 and 1991 due to both drought and excessive rain. My home State of Alabama was adversely affected by both as well. It is not enough for congress to have good intentions, as past efforts to provide disaster assistance have failed to receive funding. The Senate must act today to provide this aid.

The integrity of the American family farm is assailed on many fronts today. The adverse economic climate has created havoc on our Nation's farms while ongoing trade negotiations could result in massive imports of subsidized agricultural goods from other countries. Many American farms are facing a life or death situation. Without assistance, a great many farms will go under.

No one will argue that disaster aid packages are expensive. However, as a Senator from a State that depends heavily on its agriculture industry, I, along with many of my colleagues in the Senate, know that losing our agriculture base will cause severe economic consequences.

I have historically supported disaster aid packages for farmers and such packages should not be partisan issues. The United States of America is the breadbasket of the world. We cannot allow for the destruction of our agricultural community.

Mr. President, I ask that my colleagues in the senate join me in supporting the Leahy amendment to the Dire Emergency Supplemental Appropriations Act.

Thank you, Mr. President.

Mr. WOFFORD. Mr. President, I rise today to encourage my colleagues to support the Leahy amendment to increase the support price for milk to $11.10 with a producer financed diversion program.

For Pennsylvania dairy farmers who are trying to deal with low milk prices, the drought further complicated their financial situation. Several dairy farmers have sent me copies of their milk check stubs to illustrate the decline in milk prices during the past year. One dairy farmer from Wyoming County produced 81,257 pounds of milk in July 1990 at a net value of $7,182.01. One year later, in June 1991 sales of 99,351 pounds had a value of $6,291.11. These figures speak for themselves. This farmer produced nearly 18,000 pounds more milk and received $1,000 less net income for the month. Many farmers have been forced to produce more milk to make up the lost income.

The producer financed surplus reduction program gets at the heart of the perceived problem in the dairy industry—over production. The amendment will allow a farmer to reduce production by entering into a contract with the Secretary of Agriculture. This is self-help program for dairy farmers. They are taking responsibility for their industry and allows producers who are frustrated with their industry to do something about it.

I understand why they are frustrated. A Government Accounting Office report, in August 1991, found that prices received by dairy farmers declined 25 percent and retail prices paid by consumers declined only 5 percent.

Dairy farmers would feel differently if the prices they pay for machinery, labor, feed, health care, et cetera, declined accordingly, but this isn't the case.

To add insult to injury, the administration may allow greater dairy imports under the Generalized System of Preferences [GSP] Program. This at a time when our own producers are struggling with low prices and surpluses. Why import more products when we can't market our own?

The GSP was intended to give preferential trade treatment to developing countries. It was the intent of the GSP Program from the beginning that economic advantages would not be offered to developing countries at the expense of established U.S. industry.

I think it's time we look right here at home for preferential treatment by granting our own productive farmers the same benefits as our foreign neighbors. We should be strengthening our agricultural exports, not giving up a greater share of domestic markets.

Mr. President, I urge my colleagues to support the Leahy amendment to the dire emergency bill.

Mr. LUGAR. Mr. President, the debate today is about a $1 increase in price support for milk and a paid diversion program. The proponents of this amendment have hoped that this would bring about higher income for dairy producers in this country. It is arguable whether that will be the case or not.

I argue on behalf of the opponents of the amendment that what an increase is likely to bring about is more production of milk. That action is likely to result in lower prices and the same crisis that impelled this debate.

In short, we are back to the dairy bill again, because of signals given to dairy producers leading them to overproduce in 1990, at a time when prices were much higher, and that overproduction led to a fall in price down to the support level of $10.10.

Ideally, we should leave the farm bill alone. It was a grand compromise by many interests. We tried to take into consideration supply and demand, as well as all of the controls on dairy and other producers in our country. I simply hope that that will be the final product of the debate; namely, that the price increases which are now occurring for dairy farmers in the marketplace will continue.

We have already seen prices come from $10.10 to a level above $12 and, in October, to a national average of $13.20. In my judgment, this amendment will hurt dairy farmers and will lead to overproduction and a fall of prices again.

In addition to that, very quickly, the amendment we have today will lead to a cost to consumers. I have estimated those costs are likely to be $1.5 billion. That is a hidden tax on citizens that we would not tolerate if it were offered in a straightforward way.

Mr. President, I am advised by USDA that, after analyzing the Leahy amendment this morning, they believe it will increase Federal spending $100 million in fiscal year 1992. That is the year we are now in, Mr. President—an increase of $100 million, because of the dollar limitation on assessment collections. The USDA projects the need for an additional $100 million in collections. That is a serious problem with regard to our current budget situation, quite apart from the $1.5 billion of hidden taxes that are implied by this amendment.

Senator LEAHY has already admitted there will be an impact on the Women, Infants, and Children Program and announced he will offer an amendment attempting to fix prices in grocery stores. He will try to remedy the injury by creating another injury and distortion in our markets.

That would be, I think, a catastrophe, to get involved now in setting prices in retail stores, even with the strong argument that somehow retail prices for milk ought to be managed in the same way that we are attempting to manage producer prices in this amendment.

Finally, I just have to say that the argument that somehow or other we are not taking care of our own—a very familiar argument heard in the politics of this country, particularly in the last 60 days—is a thoroughly misplaced statement in this situation. Whatever argument one has on credits to the Soviet Union, as a matter of fact, these are loans that we anticipate will be repaid. The United States has found the Soviet Union to be a good customer, with $20 billion of agriculture exports going to the Soviet Union. Ask any farmer around the country, and they are very much inclined to support those credit sales and the collections of money from the Soviets to pay for it.

The additional $1.5 billion recently is on top of $2.5 billion of credits that are already out there. Those credits were used to buy American corn, soybeans

and, soybean meal—not money for the Soviets, but money for American farmers. Some on the Agriculture Committee may argue that because there have been sales of corn from Indiana, somehow or other that means we ought to have $1 more for milk today in Vermont. That seems shortsighted. Particularly shortsighted in view of the fact that all of us debated all commodity supports when we passed the 1990 farm bill; and now dairy is asking for differential treatment. In my judgment, it is not in the interest of the dairy industry. It is clearly not in the interest of the taxpayers, it is not in the interest of consumers, or in the interest of nutrition programs.

For that reason, the amendment should be defeated.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I yield 1 minute of my 5 minutes to Senator JEFFORDS.

Mr. JEFFORDS. Mr. President, I want to make a couple of comments. We have had a lot of discussion—and it is difficult for my colleagues to understand—but there are certain things that cannot be misunderstood; that is, the facts.

I want again to go to the chart which demonstrates the success of the dairy program over the last 10 years. As I pointed out earlier, if the price support in 1981 had kept up with the CPI, the present price support price would be $19.63. Where is it? At $10.10. We would only raise it to $11.10. Thus, it would be lower than what the CPI would have brought it to.

If you compare a deflated figure, it is half of what our farmers are getting. Look at what that had done, and we should do that not only for the consumers but for WIC participants. Probably 20 percent or more people that are on the WIC Program because of the high productivity of your dairy farmers and the decreasing costs. Probably as much as 50 percent of the people on WIC would not have been there if we had kept the same cost of the WIC Program. The dairy farmers are the heroes of the WIC Program, of the feeding programs, and of our consumers.

We are trying to maintain that high productivity, maintain the best agricultural program we have. They did not get any special treatment. Others got as good or better than dairy farmers did in the 1990 farm bill. We are trying to keep things where they are and give the benefits to the citizens of this tremendous, well-run program.

Mr. WALLOP. Mr. President, I am voting against this dairy diversion amendment. Over 1 million families with beef cattle operations are deeply and rightly concerned about the pending dairy and disaster assistance amendment being imposed on this emergency supplemental legislation today. Henry Wadsworth Longfellow once said, "We judge ourselves by what we feel capable of doing, while others judge us by what we have already done."

I am concerned about the plight of the dairy industry and interested in reaching an agreement which is appropriately beneficial for both the beef and dairy industries. However, as we debate this dairy amendment, distressing thoughts come to mind of the last Dairy Diversion Program of 1983. The diversion program eventually led to the failed Dairy Termination Program of 1985, when the beef market was forced to record-low levels. Thousands of hard working families in the beef industry were unnecessarily driven out of their business by the Government.

We are reminded of that other time so similar to this time, when Congress proposed a dairy diversion program requiring the Government to subsidize dairy farmers who agreed to freeze or reduce dairy production. Under dairy diversion provisions of this dairy and disaster assistance amendment, farmers who do not agree to freeze or reduce milk production would be assessed a mandatory fee. In principle, if the dairy industry has a government-subsidized dairy diversion program, the Government takes decisions for when dairy producers should sell their cattle assets on to the beef market away from those dairy producers, and the beef industry becomes unfairly influenced by Government directives—Government by its nature is incapable of dealing with more than one devil at a time.

As a rancher and long-time proponent of markets free from Government mismanagement, I remember clearly the legislation in 1983. It hit my socks too. Remember 1985, when Congress was no longer satisfied with a dairy diversion program and enacted the dairy termination program to further control dairy supply/demand levels. Senators heard speeches similar to the ones you're hearing today quoting studies supporting the Government's further involvement in the beef market. After pondering the rosy picture being painted of a Government-subsidized dairy program designed to market dairy cattle onto the beef market in an orderly way, Congress made a grave mistake: it enacted it. For a variety of uncontrollable reasons, business was not usual in the beef industry. The beef industry was severely damaged. As a result of the dairy termination program, and an economically unaware and an unpredictable Department of Agriculture, over a million head of cattle were driven on to the beef market. Beef inventories were reduced to a level not seen since 1962. Congress was judged by what we had done, and we were rightfully ashamed.

Unfortunately, when Congress finally came back to its senses and eliminated the termination program, granting back to the beef industry its present market free from Government intrusion, extensive damage had already been done to communities and businesses nationwide. Hundreds of families with beef operations were bankrupted and thousands more damaged by their own Government.

I had the privileged opportunity to speak in my home State of Wyoming a few weeks ago about a very important agricultural matter. My friend from Vermont, Senator JEFFORDS, made a special effort to travel to my home State to meet cattle ranchers and to see the challenges on their ranches. And I thank him for that effort. Perhaps, as have I, he spoke with strong ranchers expressing painful emotion, Mr. President, as they described the devastating effects of the failed dairy termination program on the beef market only 5 years ago. We have been judged by what we have done. We must expect to be judged by what we will do today and tomorrow.

Mr. President, no segment of agriculture should either profit from another segment's adversity, nor be the cause of that adversity. I empathize with the plight of the dairy industry. I hope a solution undamaging to the beef industry can be reached which appropriately benefits ailing dairy farmers. Nevertheless, it is of the utmost importance that the beef industry's free-market system is neither altered nor damaged.

Even with the proposed dairy diversion compromise, I believe a potential problem would remain if Congress enacts this legislation. No real caps on the number of dairy cattle to be pushed onto the beef market are included in this legislation. I believe the dairy industry has a recent history of considerable supply/demand fluctuations which cannot be completely controlled by any system of government. For example, in 1989 the dairy industry experienced large price increases due to a severe drought the year before. That drought increased dairy prices in 1989 and led to a dramatic increase in dairy production/supplies in 1990. What will happen if we enact a Government-subsidized dairy diversion program today, and it becomes necessary for many more dairy farmers to enter into dairy cattle diversion contracts next year? The answer is that Government's involvement in the beef industry would be never-ending.

Once again, under the logic of this legislation, if it's necessary to continue increasing the dairy support price, it is equally necessary to continue increasing the number of dairy diversion contracts. Good and hard working folks in the dairy industry will tell you that support prices must be considerably higher than even the proposed level being discussed today for many dairy producers to stay in business. If Congress adopts a philosophy today protecting most dairy pro-

ducers from going out of business due to natural supply/demand dairy market fluctuations at the expense of the beef industry, the trend would be for Congress to continue increasing the support price and increasing the number of dairy diversion contracts entered into each year. It would be most unfortunate if Congress enacts this legislation inadvertently making the beef industry second-guess dairy diversion programs each year.

With all due respect to my distinguished friends and colleagues representing large dairy constituencies, I ask this important question: Is the beef industry assured by every Senator supporting this dairy legislation that the American people will not be asked to support future legislation—or regulation—next year or any year to increase the dairy diversion program or to institute a costly dairy buyout program? Of course the answer to that question is "no," Mr. President. I understand there is a lot of dissatisfaction in the dairy industry regarding a possible compromise in the price support level. I hear the dairy industry opposes a support price lower than $11.10.

Mr. President, even if this legislation passes with some sort of second-degree amendment further decreasing the potential impact of a dairy diversion program on the beef market, this Senator anticipates that the beef industry can unfortunately expect future proposals to further increase the dairy support price. Of course, if the support price is increased, it follows that the number of dairy diversion contracts necessary would also increase.

While both the beef industry and the dairy industry have common business interests, they have very different philosophies about Government's appropriate role in the marketplace. I believe we must learn from our mistakes by not traveling down the same misguided path again. This amendment does not really limit the number of dairy cattle which may be slaughtered from the proposed dairy diversion program.

For the benefit of the beef industry and thousands of communities nationwide involved in the beef industry, I would urge careful evaluation of this dairy diversion legislation. Sure there must be a better alternative to this important dairy issue which does not involve potential damage to the beef industry. Thank you, Mr. President.

Mr. SPECTER. Mr. President, I support the amendment offered here today by my colleague Senator LEAHY to the supplemental appropriations bill for fiscal year 1992 to assist our Nation's dairy farmers.

The dairy industry in Pennsylvania has suffered significant losses since last year and this legislation will assist these producers in maintaining their livelihood. I believe it is crucial that the Senate act prior to adjournment on this legislation so that as the industry approaches spring a program will be in place that will effectively regulate production and price levels to allow the producer a fair market price.

Dairy production and processing is a major part of Pennsylvania's economy. With Pennsylvania ranking fifth in the Nation for milk production, it produces annually about 10 billion pounds of milk worth approximately $1.3 billion to the Commonwealth's economy. The Pennsylvania industry boasts nearly 13,200 dairy farmers with 698,000 cows in production. In the past year I have visited personally on several occasions with the dairy producers of Pennsylvania to hear their concerns on the dramatic decline in the price paid for their hard work. Their voices were united in that the current program needs reform and that without assistance many farmers will be out of business.

As I have stated in the past, the current dairy program needs revision. It has resulted in producers having little or no control over the milk prices. In turn, the price reductions which occurred earlier this year resulted in many producers having to incur losses. This matter is further exacerbated at a time when the operating and production costs have been on the rise. The U.S. Department of Agriculture estimates that the price of milk paid to producers in 1991 will be below the costs of production. It is estimated that earlier this year in some areas of the Commonwealth the average dairy farmer was paid a market price that was $4 less than the cost of production. Any good businessperson will recognize that when the cost of production is greater than the price you are paid for you commodity, you will eventually be forced out of business. Our Nation cannot afford to lose any more of its vital rural population. That is why this legislation is necessary at this time.

The amendment by Senator LEAHY provides an increase in dairy support price paid to producers from the current level of $10.10 per hundredweight to $11.10 per hundredweight. The price support floor as established in 1949 is intended to protect farmers from price declines that could force them out of business. The price reductions and production cost increases Pennsylvania farmers experienced last summer is indicative that the current price support is not doing the job.

Further, to balance the increased price support the amendment directs the Secretary to operate and manage a voluntary surplus reductions program. This program is designed to reduce production to avoid surpluses in the market in order to obtain a stable, reliable price for both the consumer and the producer. A supply control program will help prevent catastrophic declines in the price of milk by managing amounts produced. To control the costs associated with the dairy program, the industry itself will pay for the voluntary surplus reduction program.

I understand the concerns expressed by cattle producers regarding this proposal. It is my belief that if we do not act on this legislations we will continue to experience price instability and drastic loss of dairy producers. I further believe that continued loss of producers would only result in greater numbers of dairy cows culled to market through foreclosures and sales. The amendment by Senator LEAHY does contain mechanisms to minimize the negative effect on the livestock industry. It directs the Secretary, when implementing the surplus reduction program, to stagger and limit the number of contracts between USDA and participating producers.

Price stability is a goal we must strive for in the dairy industry. Price instability has been found to drive producers from the farm and damages the ability of the market to provide a dependable supply of quality milk to consumers. Only through a managed program to control production and price can a stable dairy industry be achieved. While the proposal before us may not be perfect, it represents a culmination of efforts to develop a program that will treat every dairy producer fairly.

I am hopeful that in the long term, with stability in the price of milk through a realistic price support, a production management program and the development of international trade for dairy products, the dairy industry will remain a strong, vibrant industry in Pennsylvania and the Nation.

Mr. LEAHY. Mr. President, my distinguished colleague from Vermont let me borrow this chart.

It shows that 1983, where wheat, corn, and milk were roughly in the same area of support rates. Look where they are now. Wheat and corn up here, milk down here. There is no question where the favored area has been—and it has not been milk, in these farm bills.

In fact, just a few years ago, $2.5 billion was spent on dairy price supports. We made the change to save taxpayers money. I have supported changes to save taxpayers money. Today we spend one-fifth of that on dairy. I would like to see some of the people arguing against this amendment stand up, here, and tell me how many programs they have supported to save taxpayers money like that. Have they done it in the defense bill? No. Have they done it in the foreign aid bill? No. Have they done it anywhere else? No. We have done it here in dairy. The men and women who were dairy farmers sacrificed to try to bring down the budget deficits. Let us not say to them, your reward today is that we are going to throw you off the farm, that we are not going to allow you to continue dairy farming, and being an integral part of rural America.

The fact is, the Congressional Budget Office says that my amendment will save another $24 million. It does not cost. It saves even more money. We have cut the cost of this program by four-fifths. We can save more, but at the same time we can design this in a way that actually works for the dairy farmers.

People seem to be upset when I mention what we are doing in foreign aid. The fact is, when you want to send $4 billion to the Russians to help their farmers and to help their people, it is done just like that, with the snap of a finger.

Let us at least take some steps in this country when we are at the height of a recession, when we are hurting in rural America. Rural America is hurting more than any other part of the country. Let us say, at least, that we can be as generous to our own people, and as helpful to our own people, as we are to all of these other countries to whom we give foreign aid.

I yield the floor.

Mr. President, I yield back the remainder of my time and I ask for the yeas and nays on the second-degree amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

{Rollcall Vote No. 266 Leg.}

YEAS—47

Adams	Dodd	Lieberman
Akaka	Durenberger	Mitchell
Bentsen	Fowler	Moynihan
Bond	Glenn	Pressler
Breaux	Gore	Riegle
Bryan	Gorton	Rockefeller
Burdick	Grassley	Sarbanes
Byrd	Heflin	Sasser
Cochran	Inouye	Seymour
Cohen	Jeffords	Shelby
Conrad	Kasten	Simon
Craig	Kennedy	Specter
Cranston	Kerry	Wellstone
D'Amato	Kohl	Wirth
Danforth	Leahy	Wofford
Daschle	Levin	

NAYS—51

Baucus	Coats	Gramm
Biden	DeConcini	Hatch
Bingaman	Dixon	Hatfield
Boren	Dole	Helms
Bradley	Domenici	Hollings
Brown	Exon	Johnston
Bumpers	Ford	Kassebaum
Burns	Garn	Lautenberg
Chafee	Graham	Lott
Lugar	Nunn	Sanford
Mack	Packwood	Simpson
McCain	Pell	Smith
McConnell	Pryor	Stevens
Metzenbaum	Reid	Symms
Mikulski	Robb	Thurmond
Murkowski	Roth	Wallop
Nickles	Rudman	Warner

NOT VOTING—2

Harkin Kerrey

So the amendment (No. 1394) was rejected.

Mr. LEAHY. Mr. President, I ask unanimous consent that the yeas and nays which are on the underlying amendment be vitiated.

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

Mr. LEAHY. I thank the Chair.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the first-degree amendment.

The amendment (No. 1393) was rejected.

Mr. LEAHY. Mr. President, I am very saddened by the Senate's rejection of this dairy amendment.

This has been a very tough year for our Nation's dairy farmers. Not only have prices dropped 25 percent between last January and early this year, but the administration has defeated dairy relief legislation three times.

The first time was last March, when the administration killed emergency dairy relief legislation that passed the Senate on a 60–40 vote.

The second time was last July, when White House veto threats derailed mandatory supply management legislation in the House and Senate Agriculture Committees.

The third time was today, when the administration led an all-out lobbying effort to block a support price increase for dairy farmers—a support price increase that passed the Senate Agriculture Committee last month.

The proposed amendment could put an additional $10,000 to $20,000 in the pocket of the average northeast dairy farmer. A northeast farmer participating in this program could have receive an all-milk price of between $13 and $14 per hundredweight. In some parts of the country, farmers would have received more.

I am not optimistic about passing that dairy relief in the future. While the Senate Agriculture Committee could pass our bill again, it has virtually no chance of becoming law unless the administration changes its opposition to it. I do not want to give any of our dairy farmers false hopes by passing a bill in the Senate Agriculture Committee only to have it defeated again by the administration.

In some ways, dairy farmers have more control over their lives than other farmers. They control their co-ops and the co-ops are exempt from the antitrust laws. There is nothing preventing farmer-controlled co-ops from working together and setting a price that is reasonable and will provide farmers with a fair price and an adequate income.

Certainly it would be better to pass national dairy relief legislation. But I do not see how that is possible while the current administration controls the White House. But at some point, if we are going to have any kind of a farm program at all, we ought to ask why this segment has to be singled out the way it has been here.

Rather than work to pass bill after bill, with the White House stopping each one, dairy farmers have no choice but to shift their energies inward to improve their lives. The key for dairy farmers is to organize themselves—locally, regionally, and statewide.

I will do all I can to help farmers achieve that goal.

Mr. President, I was going to next bring up the WIC amendment that I had told my colleagues earlier I was going to attempt to bring up right after this. But I know the distinguished majority leader is on the floor and the distinguished chairman is on the floor.

I ask unanimous consent that I may be able to yield to other Senators without losing my right to the floor.

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

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, I have just completed a meeting with the Speaker, the majority and minority leaders in the House, and the Republican leader of the Senate in an effort to reach an agreement on a process by which we can adjourn prior to Thanksgiving, as has been my objective for several months now. I am pleased to report to the Members of the Senate that the leadership is united in its determination to achieve that objective.

In order to do so, a great deal of work will have to be done between now and next Wednesday. This is an important bill we are now considering, and we have now been on it for almost the entire day up until this point and only one amendment has been disposed of. So it is obvious to both the Republican leader and myself that the Senate will have to be in session tomorrow if we are to have any hope of completing action prior to Thanksgiving.

So, Senators should be prepared for a late Senate session this evening and a session tomorrow. It is my intention, following consultation with the distinguished Republican leader, to proceed to the defense appropriations conference report following completion of this measure. I do not think any of us can at this moment know when this measure will be completed. I have discussed the matter with the chairman of the Appropriations Committee, the

manager of the bill, and he has indicated he expects it will be some time because there are a number of amendments, but he and the ranking member and also manager want to proceed this evening. So we are going to proceed. It is my hope that those Senators who have indicated an intention to offer amendments will be prepared to do so and that we will not be subjected to lengthy delays during the day today waiting for Senators to offer amendments. That is never an attractive practice, and I think particularly so as we try to reach our objective of adjournment prior to Thanksgiving. But I want to reaffirm my determination to do that if it is at all possible.

We have to complete action on certain important measures, and we are going to try to accmplish as much of the Nation's important business as we can. And I think if there is any hope of reaching that objective, we will have to be in late tonight and tomorrow.

I would like to yield to the distinguished Republican leader, if I may.

Mr. DOLE. Let me reaffirm what the majority leader just stated. It occurs to me I would rather be in here tomorrow than on Wednesday, because I think, if people are going to be going anywhere for Thanksgiving, they need some traveltime. So I am very optimistic. I have been hoping we could finish tonight. I think we could, for all practical purposes, finish anything with any number of votes on it. We may be down to conference reports by tomorrow evening. And then if some felt like leaving at that time, that would be all right with me, too. We could just leave the leaders here; we could just wrap it up sometime next Tuesday. We would give you a ring.

In any event I think it looks like it is possible now.

Mr. MITCHELL. Yes, it does.

Mr. BIDEN. Mr. President, let me ask a question. I am happy and prepared to and delighted to be in here tomorrow to finish the business. But since all of us are in the same boat where the only thing we know our constituents do not understand is being told we are canceling a commitment we have made to them and give the reason because the Senate is in session and then they pick up the paper the next morning and find out the Senate is not in session and we look like we were not telling the truth—we are going to be in for certain tomorrow; is that correct?

Mr. MITCHELL. Mr. President, if I might respond, there is a natural longing to impose certainty in a situation, to wit, the Senate's operations, in which certainty is inherently impossible. If we finish this bill in the next hour and then we pass the defense appropriations bill in the hour after that and we finish three or four other bills by 6 or 7 o'clock tonight, all of which I think highly unlikely, it would not be my intention to say, well, let us come on in here because I earlier said we have to be here. I think that is not very likely.

I can say that if the Senator receives any such complaint, I will be pleased to field the questions from the people of Delaware.

Mr. BIDEN. Mr. President, I just ask if the leaders would be willing to write me a note. [Laughter.]

Mr. MITCHELL. I just say that I think it is highly unlikely that we will reach the point today that will render it unnecessary to have a session tomorrow.

If I knew that for sure I would say it. I think you better plan on being here, and I will be glad to write any note.

Mr. BYRD. Will the Senator yield to me?

Mr. LEAHY. Certainly.

Mr. BYRD. While we have a good attendance here, I wonder if Senators would indicate if they have amendments. I would like to see how many Senators——

Mr. D'AMATO. Mr. President, I am ready to go. I understand——

Mr. BYRD. Senator D'AMATO has one amendment.

Mr. D'AMATO. Yes; at least one.

Mr. BYRD. Senator NICKLES has one. Who else has amendments? Senator LEAHY has one. Senator LOTT has one. Senator LAUTENBERG has one. Senator CONRAD has one. Senator KENNEDY has one. Any others?

Mr. GORTON. Senator NUNN, I believe, has several.

Mr. BYRD. Senator NUNN has some amendments.

Mr. COATS. I possibly have an amendment. We think it might be accepted and worked out. It is in that category. We are not sure. There is one possible amendment.

Mr. BYRD. Very well, I ask my counterpart who is working with me, Mr. HATFIELD, if he would help on his side. We have the names of those who indicated. If we could find out from them, if during the afternoon we can get a time agreement on their amendments, and if we could also alert our Cloakrooms to have Senators who have amendments to let the managers of the bill know as soon as possible so we have some idea of how many amendments are going to be called up. At some point I would hope that my colleague will join me in moving to table all amendments after a certain point.

These initial amendments that we learn about, I am willing to not move to table them. But as the day wears on, if more and more amendments sprout, then I think we ought to form an alliance here and attempt to table amendments. That will not be for a while, however.

Mr. CHAFEE. Mr. President, I wonder if I might ask, was I to understand the distinguished Senator from Vermont suggesting he offer the same amendment all over again?

Mr. LEAHY. Mr. President, I still have the floor. I cannot imagine any Senator who would actually be so out of tune to think that, and I know the Senator from Rhode Island is not out of tune. So I suspect he was just trying to make a joke.

Mr. CHAFEE. I am not spending my time making jokes. It is just that I understand the suggestion to that effect.

Mr. LEAHY. Then, Mr. President, I suggest the Senator was out of tune, and, the answer is, of course not.

Mr. BYRD. Mr. President, if the Senator will continue to yield.

Mr. LEAHY. I do yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I have one final suggestion, and that is those Senators who have amendments, if they would call them up and speak briefly on them—they can have a vote up or down as far as I am concerned, but in order that we might not go too late into the evening, if they would call them up and get a vote on them, one way or the other so we can get on with the bill.

Mr. President, I thank the Senator for yielding.

The ACTING PRESIDENT pro tempore. The Senator from Vermont [Mr. LEAHY] has the floor.

Mr. LEAHY. Mr. President, can we have order, please?

The ACTING PRESIDENT pro tempore. The Senate will come to order. The Senator from Vermont has the floor.

Mr. LEAHY. I know I told others I am going to bring up a WIC amendment. In all likelihood, I will get us in and out of that in 5 to 10 minutes.

I ask unanimous consent that I be able to yield to the senior Senator from Massachusetts without losing my right to the floor, and I will then be recognized again on the WIC matter which I assure my colleagues will take a very brief time.

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

AMENDMENT NO. 1395

(Purpose: Substitute language to restrict arms sales to Saudi Arabia and Kuwait)

Mr. KENNEDY. Mr. President, for myself and my colleagues, Senators KERRY, SHELBY, DODD, SMITH, FORD, AND PELL, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy], for himself, Mr. KERRY, Mr. SHELBY, Mr. DODD, Mr. SMITH, Mr. FORD, and Mr. PELL, proposes an amendment numbered 1395.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 13, line 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

Mr. KENNEDY. Mr. President, I am proposing this amendment on behalf of myself, Senator KERRY, Senator SHELBY, Senator DODD, Senator SMITH, Senator FORD, and Senator PELL. I believe that the amendment has been cleared on both sides.

The amendment would modify a provision in the supplemental that would halt all American arms sales to Saudi Arabia and Kuwait until they have fulfilled all of their financial pledges to the United States for Operation Desert Storm.

I strongly support the objective of full payment of Desert Storm debts.

Our gulf war allies pledged both financial and in-kind contributions, and these commitments must be honored.

But, as drafted, the provision in the supplemental suspending arms sales to Saudi Arabia and Kuwait would cause significant unintended hardship for American defense workers in Massachusetts and elsewhere. It would force the cancellation of ongoing contracts worth billions of dollars, and lead to thousands of layoffs around the country.

For example, in Massachusetts, by halting all work on Patriot air defense missiles being built under contract for Saudi Arabia, the provision would lead to an immediate layoff of over 1,000 workers. In the longer term, this provision could mean the loss of over 5,000 jobs in Massachusetts.

There would be similar employment impacts in California, Florida, Michigan, Ohio, and elsewhere. These job losses would come at the worst possible time given the current recession, which is particularly severe in the Northeast.

The amendment that we propose would modify the arms sale provision to avoid these severe job losses. It would provide Saudi Arabia and Kuwait with 120 days to pay their Desert Storm obligations in full. If they failed to meet this deadline, new arms sales would be barred until they meet their obligations.

This amendment has two major advantages over the existing provision. First, it would avoid major layoffs in the American defense industry. Our defense workers were the unsung heroes of Operation Desert Storm. Their long hours and quality workmanship provided American forces with the technological capability that led to a quick victory with extremely low casualties. It would be unfair now to penalize these workers because other nations have been slow to pay the obligations arising from the war.

Second, the amendment would grant Saudi Arabia and Kuwait a reasonable time to make good on their Desert Storm commitments. To date, Saudi Arabia has paid $14.9 billion of its total Desert Storm commitment of $16.8 billion. It is paying off the balance at a rate of $500 million a month.

Similarly, Kuwait has already paid $14.6 billion of its total commitment of $16 billion. And, it is paying off the balance at the rate of $700 million per month.

Saudi Arabia and Kuwait have already paid about 90 percent of their Desert Storm commitments and they are on a schedule to reach payment in full within a few months.

If these two nations maintain this payment schedule, they will meet their Desert Storm commitments well within the 120-day timetable in this amendment.

Both nations should pay all of their debts associated with the gulf war. The amendment that we propose will achieve this objective in a reasonable manner without unnecessary hardship for American defense workers that a sudden cutoff will involve.

I want to thank the chairman of the Appropriations Committee, Senator BYRD, for his cooperation in working out this amendment. Through his efforts and those of his fine staff, I believe we have developed an alternative that protects both the Treasury and the job security of a large number of American defense workers.

This 120-day delay is designed to allow defensive sales already in progress to proceed. It should in no way be interpreted as an endorsement of the sale of offensive weapons to the region during this period.

I am deeply concerned over reports of administration plans for a massive infusion of offensive weapons into the Middle East.

There are reports of a proposal for the sale of 72 sophisticated F-15 aircraft to Saudi Arabia, as well as the possibility of providing Saudi Arabia with an offensive military capability. Since the gulf war, the administration has provided no overall assessment to Congress of the defensive needs of the region, and yet it has sold $11.5 billion in arms to the region since the war.

The United States is now the leading arms supplier in the Middle East and has sold $30.7 billion in arms to the region between 1987 and 1990. In the wake of the gulf war, it is imperative that we assess the legitimate needs of the region before moving forward on any such sales of offensive weapons—and certainly before we diverge from the long-standing United States commitment to ensure Israel's qualitative military edge.

I urge the administration to provide Congress with an overall assessment of the military threat and the legitimate defense needs of the region. Until Congress receives such a report it would be ill-advised for us to approve a new sale of offensive weapons to Saudi Arabia. I urge the administration to provide such a report within the 120-day period provided in this amendment.

Mr. President, I have talked to both managers of the legislation and I understand that this amendment is acceptable. All of us are desirous for the full repayment by Kuwait and Saudi Arabia for their obligations. They have been 90 percent fulfilled at the present time. At the rate that they are moving, they expect to be fulfilled within the 120-day period. This mandates that they do, where otherwise all sales to Kuwait and to Saudi Arabia will be curtailed.

In the pipeline prior to this particular action had been sales of defensive weapons systems, one of them the Patriot weapon system. This particular amendment, therefore, will insist that there be repayment by Kuwait and by Saudi Arabia, but it does provide a timeframe by which this sale will be made, and it is of 120 days. There is every expectation that there will be a full and complete payment of that particular obligation.

I want to lastly say I appreciate very much the consideration that has been given to this proposal by the chairman of the committee. I am in complete support with the objective of the particular amendment which has been put in place. This will ensure that the objective of the committee amendment will be carried forward, but it will also permit a defensive weapons system that had been effectively contracted for, to be completed without very significant loss and disruption of employment practices.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, my friend and senior colleague, Mr. KENNEDY, and I are offering an amendment to correct the unintended detrimental effect of an important provision added by the Senate Appropriations Committee to the supplemental appropriations bill.

That provision if enacted would halt all sales of United States arms to both

Saudi Arabia and Kuwait until they have paid the entire amount of their pledges to the United States to share the financial burden of Operation Desert Storm.

The distinguished chairman of the Appropriations Committee, who also is the manager of this bill, certainly deserves only the highest commendation for taking steps to ensure that the commitments made by our gulf war allies—particularly the two which were the foremost beneficiaries of our involvement in the Desert Shield and Desert Storm actions—are fully honored.

But as the provision is worded, very serious difficulties unintentionally would be imposed on firms manufacturing important defensive armaments and on their employees, in Massachusetts and other portions of the Nation.

An important illustrative case can be found in Massachusetts, where work currently is under way to manufacture Patriot air defense missile systems for Saudi Arabia. Enactment of the supplemental appropriations bill containing the arms sale prohibition in its current form would necessitate the immediate shutdown of the assembly line, resulting in the layoff of over 1,000 workers. As the ripple effect takes its toll, eventually this action could cost the Commonwealth over 5,000 jobs.

Mr. President, such employment loss never is an attractive prospect. At a time when a severe recession grips not only the State Senator KENNEDY and I represent but large regions throughout the Nation, such an outcome is unthinkable.

As Senator KENNEDY pointed out, the amendment we are proposing, with the distinguished Senators from Alabama [Mr. SHELBY], from Connecticut [Mr. DODD], from New Hampshire [Mr. SMITH], from Kentucky [Mr. FORD], and from Rhode Island [Mr. PELL], preserves the key thrust of the provision added by the Appropriations Committee—imposing an arms sale moratorium on Kuwait and Saudi Arabia until their Desert Storm financial obligations are paid in full. But it delays the effectiveness of that provision for 120 days.

In my judgment, it is appropriate to use the carrot and stick approach to this matter, rather than only the stick. It also may well be more productive. The moratorium provision, as modified by our amendment, serves notice of what will occur if the Kuwaiti and Saudi obligations are not met in the near future, but it also provides a reasonable amount of time during which those two nations can comply. In fairness, it should be noted, as my senior colleague, Mr. KENNEDY, indicated in his statement, that Saudi Arabia has to date paid $14.9 billion of its obligation of $16.8 billion, and that payments of $500 million are being received each month. Kuwait owes $1.4 billion of its original obligation of $16 billion and is making payments of $700 million a month. So both nations should be able to complete their payments within the 120 days provided by our amendment.

This advantage is joined by the fact that this amendment will prevent immediate and major layoffs of defense workers. It would be strikingly ironic and unjust if the defense workers who went into the equivalent of overdrive—increasing productivity, in some cases working double shifts, and otherwise responding in every possible way to be sure our soldiers, marines, airmen, and sailors had the weapons, delivery systems, and equipment they needed successfully to prosecute Operation Desert Storm—were made to suffer because Kuwait and Saudi Arabia have been slow in meeting their gulf war obligations.

The distinguished manager of the bill, Senator BYRD, has been gracious and accommodating in working with us to resolve this matter in a way that will preserve the original intent of the arms sale moratorium provision without imposing immediate and unfair hardships on U.S. defense workers or companies. I want to offer sincere appreciation to him and his staff—my personal appreciation and appreciation on behalf of several thousand Massachusetts workers who want only to be able to continue to produce a first-rate defensive weapons system.

Mr. President, I would like to thank the distinguished President pro tempore and manager of the bill and chairman of the Appropriations Committee for listening on this matter. I think he is absolutely correct in seeking to guarantee the full repayment and he is to be congratulated for setting up the structure that does that.

At the same time, Senator KENNEDY and the others who have joined in the amendment feel that this amendment avoids an unintended consequence. The workers courageously, obviously, went into double gear in order to meet the demands of Desert Storm and it would be clearly inappropriate for them to now somehow be handicapped inadvertently as a consequence.

I thank the distinguished chairman of the Appropriations Committee for being sensitive to that fact and for accepting this amendment as consequence.

Mr. SHELBY. I rise today to join my colleague on the Armed Services Committee as a cosponsor of this amendment. The amendment offered by Senator KENNEDY represents a good compromise on the issue of payment of the gulf war pledges by Saudi Arabia and Kuwait.

I can certainly understand the necessity for a provision in the supplemental appropriations bill which calls for the suspension of arms sales to Saudi Arabia and Kuwait until each country fulfills its gulf war pledge. The United States defended Saudi Arabia from further aggression by Saddam Hussein and liberated Kuwait. These nations made commitments which must be adhered to.

However, a vital component of the defense of Saudi Arabia and other nations of the Middle East was the Patriot missile. Every Member of this body can still visualize Patriot missiles streaking up into the night to intercept Saddam Husseins's Scuds raining down on Saudi Arabia and allied troops.

It is, therefore, understandable that Saudi Arabia wants to purchase Patriots from the United States. The Middle East remains an unstable region and the Patriot would add to that Nation's security.

This is also an industrial base issue. Contractors building this missile are dependent upon the sale that is already under contract and the proposed sale of an additional 12 fire units to keep workers employed until the next generation of Patriots are produced.

Mr. President, it is my understanding that Saudi Arabia has paid approximately 90 percent of its pledge of $16.8 billion and is on schedule to compete payment in the next few months. The amendment before the Senate would allow for an additional period of 120 days after enactment of this legislation before the provision takes effect. I believe that Saudi Arabia will have paid off its pledge by this time.

Mr. President, I commend the President pro tempore for his attention to this important issue. I also want to applaud Senator KENNEDY for his leadership. All nations that have made commitments to the United States to support Operation Desert Shield/Desert Storm must fulfill such commitments. I believe this amendment will ensure that these obligations are carried out in a fair and equitable manner.

Mr. DODD. Mr. President, I rise in strong support of the amendment proposed by the Senators from Massachusetts. I am proud to be an original cosponsor of this amendment. And I want to commend the Senator from Massachusetts [Mr. KENNEDY and Mr. KERRY] for their work on this important measure.

This amendment remains true to the original purpose of section 104, which was designed to ensure that our partners in the gulf war fully compensate the United States for the cost of that war. That is an important goal, Mr. President, and one that I wholeheartedly support. Americans took the greatest number of casualties among allied forces in the Persian Gulf, and Americans absorbed the greatest number of expenses. It is only fair that our allies, particularly Saudi Arabia and Kuwait, pay their share on a timely basis.

At the same time, Mr. President, the provision as written would imme-

diately cut off all arms sales to Saudi Arabia and Kuwait—regardless of when those contracts were signed. That presents an unfair burden for a number of defense contractors that have spent weeks and months making plans based on those sales. Many of those contractors, such as Norden, Sikorsky, and a number of small suppliers, are located in the State of Connecticut. To ask these contractors to pay the price for Saudi and Kuwaiti intransigence is hardly equitable—especially when the economies of Connecticut and many other States in the region are so dependent on defense contractors.

Mr. President, the amendment currently before the Senate would address both issues in an honest and equitable manner. It would apply only to contracts signed after the provision takes effect. And the provision would not take effect until 120 days after the enactment of this legislation.

At the current rate of payment, that will provide plenty of time for Saudi Arabia and Kuwait to repay their debts in full. At the same time, it will provide those countries with a serious incentive to do so.

Mr. President, this amendment strikes me as a fair compromise, and I urge its immediate adoption.

Mr. PELL. Mr. President, I am delighted to be an original cosponsor of the legislation proposed by the Senators from Massachusetts [Mr. KENNEDY and Mr. KERRY]. The distinguished President pro tempore of the Senate and chairman of the Committee on Appropriations, Mr. BYRD, deserves our commendation for taking the position that Kuwait and Saudi Arabia must meet their pledged obligations as a result of the desert war. I think that this amendment preserves Senator BYRD's excellent intent and ensures that the Kuwaitis and Saudis will get a very strong message from the Senate of the United States. I should note that his amendment will allow military transfers and proposals regarding Saudi Arabia to proceed for 120 days.

One proposal is currently under consideration. Congress has been given informal notification of one particular sale, that of 14 Patriot anti-aircraft missile fire units. Against the background of the gulf war, I and other Members have concluded that Saudi Arabia has a legitimate need for strong missile defenses against potential threats from both Iran and Iraq.

At the same time, at this critical point in the quest for a peace settlement and in efforts to achieve multilateral constraint, I do believe that we should be very resistant to any plans to ship highly sophisticated offensive weapons to the gulf region. I intend to consult closely with the executive branch in the coming months with regard to this matter.

Mr. President, I ask that a letter that the distinguished Senator from North Carolina [Mr. HELMS] and I sent to the Secretary of State in regard to this matter be inserted in the RECORD following my remarks.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, November 21, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing with regard to the proposed sale to Saudi Arabia of fourteen Patriot surface-to-air missile fire units with a total value of $3.3 billion. The Departments of State and Defense have been very helpful in consultations beginning last month, including a full briefing for staff on November 7, prior to the informal submission on November 14.

The Congress made it clear last year and this year in several legislative vehicles, including the Foreign Aid bill and the State Department authorization act that it draws a distinction between major offensive equipment and purely defensive equipment, such as the Patriot. With regard to this particular sale, we are not aware of any serious opposition.

We note that Saudi Arabia will face in the years ahead a missile threat posed by both Iraq and Iran. It is clear that adequate Saudi defenses against this threat can contribute to stability in the Middle East.

We note further that the proposed sale, taken together with a Patriot sale allowed by the Congress last year, would result in levels of equipment comparable to the Patriot forces deployed by the United States in Saudi Arabia during the Persian Gulf War. Accordingly, we believe that the Patriot sale is appropriate.

At the same time, we want you to understand that it is important that countries in the Middle East recognize the right of all nations in the region to exist within safe and secure borders and that they support the peace process. I hope you will continue your efforts to ensure that this is the case with such nations as Saudi Arabia. Moreover, a number of Members have expressed general concerns with regard to arms sales to the Middle East at this point in the quest for a peace settlement in the region, and there is a widely held view that the United States should be particularly wary of sales of major equipment that could jeopardize efforts to achieve supplier agreement on meaningful restraints.

Given the considerations we have outlined, we conclude that it would be appropriate for the Administration to submit a formal 30-day notification upon the expiration of the informal period in the first week of December.

We believe this approach will be understood and accepted by our fellow Senators. However, should substantial concerns materialize, we would expect to consult with you when Congress returns in January as to how best to proceed.

With every good wish.

Ever sincerely,

JESSE HELMS,
Ranking Minority Member.
CLAIBORNE PELL,
Chairman.

Mr. BYRD. Mr. President, I appreciate the concern and I understand the concern that has been expressed not only here this afternoon but prior to this afternoon by the distinguished Senators from Massachusetts. I thank them for offering the amendment. I am certainly willing to accept it.

I view the change that Senator KENNEDY and Senator KERRY and others who are cosponsoring the amendment are proposing as a positive contribution to the legislation. I understand the concerns about the possible adverse impact of the immediate cutoff of existing arms sales. I think the changes that have been proposed will take care of that problem.

I also thank the staff on both sides and the staff of Senator KENNEDY and my own staff for working to come up with language which allows us to achieve the intent of section 104 without jeopardizing American jobs.

I ask unanimous consent that I be added as a cosponsor.

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

Mr. HATFIELD. Mr. President, the amendment offered by the Senator from Massachusetts has been cleared on this side.

I would like to underscore a simple fact, though. In no way does this amendment diminish the deep feeling that was expressed in the amendment offered by the chairman of the committee in the first instance, but yielding to the pragmatic aspects of its implementation, the amendment in no way, from my perspective, diminishes the importance of that initial amendment.

It is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 1395) was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 1396

(Purpose: To provide a minimum rate of price support for milk and to protect the WIC program)

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KOHL, Mr. DASCHLE, Mr. WELLSTONE, Mr. WOFFORD, Mr. KERRY, and Mr. HARKIN, proposes an amendment numbered 1396.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the substitute, add the following new section:

SEC. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

Mr. LEAHY. Mr. President, this amendment is offered on behalf of myself, Senators KOHL, DASCHLE, WELLSTONE, WOFFORD, KERRY of Massachusetts, and HARKIN. It speaks to savings in the WIC Program. It would actually put 63,000 more women, infant, and children on WIC.

WIC, I think most of us would agree, is one of our most important nutrition programs. Over the years I have offered amendments that have boosted funding for WIC, cut administrative costs, and added additional needy infants, children, and pregnant women to the program.

As stated earlier, I think I have either been the sponsor or prime cosponsor of every improvement in the WIC Program that has gone through this body in the past 17 years. I am pleased by the tremendous, bipartisan support on that. I remember times when most of the WIC bills were either a Dole-Leahy or Leahy-Dole, or others within this body who joined in them—the distinguished colleague from Vermont, and the distinguished Senator from Massachusetts and others who have been here.

This amendment was intended to follow the previous dairy amendment, had it passed.

This amendment was to be offered as an added insurance—insurance to protect WIC from any unintended, adverse impact.

CBO agrees with me. CBO's letter says that this amendment means that "no funding increases would be needed to maintain the WIC population." This means that WIC is fully—fully funded.

It is obvious that this bill now, as it is without the dairy amendment, would not be the best place to put the WIC amendment. So I will shortly withdraw the amendment. I have submitted it here and it will of course be printed and it will alert my colleagues to a form that I wish to use in WIC later on.

With this WIC amendment, we can increase the number of people on WIC. Today, 40 percent of the women, infants, and children who are eligible for WIC cannot participate in the program. There is not enough money for them.

This amendment does more then fully protect WIC. It will stretch each WIC dollar, allowing more eligible infants, children, and pregnant women to receive benefits.

Right now, only 60 percent of those eligible for WIC actually receive WIC benefits.

Let's remember for a moment why WIC is so important.

For every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in Medicaid costs during the first 60 days of her newborn's life (report issued by USDA);

WIC reduces infant mortality;

WIC improves prenatal care; and

WIC reduces premature deliveries.

The amendment before the Senate would increase WIC funding without taking one penny from the U.S. Treasury.

Before I outline the amendment, it is important to review what is happening with milk at the retail level.

In January of this year, I asked the General Accounting Office to investigate reports of milk price gouging by retailers.

In September, GAO reported that the price farmers receive for a gallon of fluid milk dropped an average 20 percent between August 1990 and May 1991 while the price consumers pay for milk has declined by less than 5 percent.

In other words, consumer prices for milk are slightly lower than last year despite a big drop in the price farmers are getting for their milk.

An April 1991 Cornell University study, Agricultural Economics Prof. Richard Aplin, concluded:

As the farm price of milk dropped drastically * * *, most of the widening marketing spread can be attributed to a big increase * * * in the food retailers margin. * * *

Looking at the retailer, it is clear the average retail margins on Milk * * * are well in excess of the cost of supermarket's handling milk. * * * *Retailer margins have been well in excess in their costs at least since 1985 but the profitability of fluid milk to supermarkets has increased significantly in recent months.* (Emphasis added.)

The study concludes with the following observation:

Comparing retailer margins with the cost of handling milk in supermarkets suggest that fluid milk is a very profitable item for supermarkets.

Somebody is making a lot more while dairy farmers are making a lot less. Retailers and others are making a fast buck while dairy farmers are losing thousands of dollars.

No matter how greedy the retailers are, I am not proposing a general rollback of their prices. Neither am I proposing price controls.

However, price gouging at the retail level costs taxpayers' dearly. This is because taxpayers currently reimburse retailers for every item a WIC recipient buys, no matter how inflated a price the retailer charges.

When a WIC mother buys food, she exchanges special vouchers for food—such as milk, infant formula, cereals, and so forth. The recipients pay nothing; the State reimburses the store for the full retail cost of the food.

The amendment does not affect the WIC recipient. Rather, the amendment sets a limit on the amount of reimbursement a store can get for milk it sells to WIC participants.

The amendment does not regulate the price set by the store. Stores can continue to charge what they want for milk. However, if they charge too much, the WIC Program will only reimburse them for a fair price.

Cost controls on Federal expenditures are not a new concept.

For example, Medicaid uses cost controls to keep down the price on prescription drugs. The Veterans' Administration uses a similar procedure.

In fact, I wish the Pentagon used cost controls. I am tired of $500 toilet seats.

All of us have heard horror stories where stores in the inner-city or rural America take advantage of poor people who often lack transportation to travel to bigger stores.

Poor infants and children are getting ripped off by some stores that charge excessive prices.

Right now, we use cost containment for WIC. Legislation Congress passed saves over $600 million each year on infant formula for WIC. This puts over 1 million more women, infants, and children on WIC at no cost to American taxpayers.

Even the administration likes cost containment. A 1990 USDA report on WIC says that in addition to infant formula—

States need to have the flexibility to develop other cost containment models that better suit the specific WIC product being considered and the individual state's characteristics, *including retailer operations*. States should be able to take into consideration cost containment measures at the retail level such as coupons and cost-off discounts. (Emphasis added.)

Putting politics aside, the administration should be supporting my amendment because it furthers the goals outlined in the USDA report.

Several States—like Indiana and Texas—already use cost containment for WIC. Both Indiana and Texas require stores to sell less expensive brands to WIC recipients.

This amendment proposes a less severe approach than used in either Indiana or Texas. Instead of using the Indiana/Texas approach of limiting the brands a WIC recipients, buy any brand of milk they want.

The amendment simply puts a reasonable cap on the cost to the Government—and sets that cap at a reasonable amount for the retailer.

Let us deal for a moment with some of the arguments that commercial interests may raise against the amendment.

Some may claim that this might force stores off of WIC. There is no basis for this claim.

WIC milk sales are only a fraction of all milk sales in the country. Less than 3 percent of all milk sold is sold through WIC. Also, a store's WIC business is such a small part of that store's total business.

WIC customers buy products other than milk at the same store. This amendment will not affect the price or reimbursement of other WIC products, or non-WIC products.

However, if a store suffers from unusual circumstances, the Secretary of USDA can exempt stores from these limitations.

Others may claim that this amendment discriminates against small stores, rural stores, or inner-city stores.

This amendment does not discriminate against big stores or little stores, or against rural stores or urban stores.

It discriminates only against stores who are gouging their customers.

I do not like price controls. I am not in favor of them.

This amendment does not impose price controls. It is cost containment. It is a concept we should impose on more Federal programs, not less.

Every Member of this body all too well knows of the enormous Federal deficit and the urgent needs that go unfunded every day.

Today, we have the opportunity to add more people to one of the most successful programs in government without asking the taxpayers to contribute even one cent.

This is good government. This is the right thing to do.

The withdrawal of this amendment in ironic, as WIC is probably the program that all of us, at least the vast majority of us in this body—Republicans and Democrats alike—could agree has been one of our most important nutrition programs.

As I said previously, I am saddened by the Senate's rejection of the dairy amendment. All the cosponsors worked exceptionally hard on it. I would single out only one of the cosponsors, and not suggest the others have not worked hard, they have worked very hard, but I would single out one and that is my colleague and partner from Vermont, Senator JEFFORDS. Nobody on either side of the aisle worked harder, more diligently, longer hours than did Senator JEFFORDS. He knows, as I do, it has been a very tough year for our Nations' dairy farmers.

So, Mr. President, I thank all Senators who joined in this debate. I might say——

Mr. JEFFORDS. Will the Senator yield?

Mr. LEAHY. If I could complete just this one thought.

I especially want to extend as a personal matter my thanks to the ranking member of the Senate Agriculture Committee, who opposed me on this legislation. I congratulate him on winning. But I express my appreciation to him because in this, as in all other matters on which we work together, he has been honest, forthright, and direct with me. He has made very clear his position. He has never suggested otherwise. And I appreciate both that honesty and also the strong support I have received from him on other issues, as I hope he appreciates the support he has received from me on such issues.

Now, I would like to yield to my distinguished colleague and partner from Vermont.

Mr. JEFFORDS. I thank my colleague from Vermont for yielding.

I just want to echo some of the comments that have been made, but most importantly to commend him on the tremendous effort he has made in trying to bring forth successful legislation to assist beleagured dairy farmers.

As he has pointed out, it indicates that when you have dissension within the ranks of those within the dairy industry, it is very difficult to pass a bill, and that we have found out as an analysis of the votes would show.

But I also want to echo his comment on the WIC Program and again point out that it is the dairy farmers who have added more people to the WIC Program and allowed more women, infants, and children to participate in the WIC Program through their productivity, and thus there is no need in any way to chastise or in any way criticize the dairy industry because their productivity has helped more than anything else and certainly more than we have.

I know he shares my view that there would be nothing better for this Nation in health and otherwise than to make the WIC Program an entitlement program. The Harvard study of many years ago and many other studies have indicated that for every dollar we spend on the WIC Program, we save $3 in health costs and thus it is ridiculous to do anything other than have an entitlement program if we want to reduce health costs in this country.

Also, I know I speak for my senior Senator in that we have not given up, nor will we give up, on finding that magic program which will help our dairy farmers without creating any significant problems to others. I am hopeful now that we do know there are other options available to us, at least one option the administration agrees with, either in the next few days or at least early next year we will be able to do something to prevent the serious drop in price which we will expect to find next year.

With that, Mr. President, I yield back to the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my distinguished colleague for his kind words. I agree with his assessment of the situation.

I also should note the enormous work of the team led by Janet Breslin for the Senate Agriculture Committee: Lynnett Wagner, Jim Cubie, Tom Hebert, Ed Barron, and of course staff director, Chuck Riemenschneider. But I especially want to thank Dr. Breslin for putting together such a good team, and for all the work she did on it.

Mr. President, I would withdraw the WIC amendment now pending. I wish to say to the distinguished chairman of the Senate Appropriations Committee, Chairman BYRD, now has a herculean effort ahead of him. And time and again he, like Hercules, is up to it.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator has the right to withdraw the amendment. The amendment is therefore withdrawn.

The amendment (No. 1396) was withdrawn.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Vermont.

AMENDMENTS NOS. 1397, 1398, 1399, AND 1400, EN BLOC

Mr. BYRD. Mr. President, I send an amendment to the desk by Mr. REID, an amendment by Mr. BREAUX, two amendments by Mr. DECONCINI.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; that the motion to reconsider en bloc be laid on the table, and that statements and colloquies in explanation thereof be appropriately placed in the RECORD as though read.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (numbered 1397, 1398, 1399, and 1400) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1397

SEC. . From the funds made available for land acquisition of the United States Fish and Wildlife Service in the fiscal Year 1992. Department of the Interior and Related Agencies Appropriations Act (PL 102-154), $965,000 is hereby appropriated by transfer to the Resource Management account of the United States Fish and Wildlife Service.

Mr. REID. Mr. President, during the 101st Congress I introduced legislation to settle an 80-year-old war affecting northern Nevada, California, and the Pyramid Lake Indian Tribe. Public Law 101-618, the Truckee-Carson-Pyramid Lake Settlement Act, was enacted in November 1990 to provide for a multibureau action program in the Truckee-Carson River system to adequately balance the highly complex and controversial water management aspects of this settlement.

The Fish and Wildlife Service is involved in several aspects of implementing this legislation including a negotiated operating agreement for the Truckee River, protection of Pyramid

Lake Fisheries, and acquisition and transportation of water for the Stillwater National Wildlife Refuge. The Fish and Wildlife Service has just recently indicated to me that in order to accomplish these purposes, they need greater appropriations flexibility than that which was provided in the fiscal year 1992 Interior appropriations bill, Public Law 102-154.

My amendment provides the necessary flexibility by moving a portion of the money appropriated in the Interior appropriations bill for land acquisition for the Stillwater National Wildlife Refuge to the Resource Management Account of the U.S. Fish and Wildlife Service.

A total of $1.7 million is required for various activities under the Truckee-Carson-Pyramid Lake Settlement Act, such as NEPA compliance, endangered species protection, fishery technical assistance and ecological contaminant studies. Of that amount, the Fish and Wildlife Service has advised me that $965,000 must be appropriated through a transfer of funds from land acquisition to the resource management account of the U.S. Fish and Wildlife Service. The amendment I am proposing directs that transfer to occur within the supplemental appropriations bill.

Mr. President, it took many years of work to complete the Truckee-Carson River settlement. It has the full backing of the administration and Congress. My amendment does not entail any additional appropriation by the Congress, and I understand that it has been cleared by both sides of the aisle.

AMENDMENT NO. 1398

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102-140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

Mr. BREAUX. Mr. President, on behalf of myself and Senators KERRY, BENTSEN, JOHNSTON, LAUTENBERG, ROBB, WELLSTONE, DURENBERGER, and LOTT, I want to raise a concern regarding a provision in Public Law 102-140, the act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1992, and for other purposes.

The Fisheries Obligation Guarantee Program [FOG], characterized as a simple Fishing Vessel Obligation Guarantee Program in this act, guarantees loans for the construction, reconstruction, reconditioning and purchase of shoreside fishery facilities, refinancing of existing vessels, and only to a minimal extent, construction of new vessels. I was pleased to see that the conferees provided a total of $2.7 million in subsidy costs and administrative expenses for this important program. These amounts were clearly required under the new accounting procedures of the Federal Credit Reform Act of 1990 [FCRA].

I am concerned, however, with the inclusion of a $10 million limit on loan guarantee authorizations under the act as currently written. Although there appears to be conflicting interpretations of FCRA requirements, appropriations for some other loan guarantee programs indicate that a specific loan guarantee authorization figure is not necessary, provided that a subsidy cost appropriation is made. We believe that the subsidy cost assumptions used are not accurate, and that the $1 million appropriated for subsidy costs should provide for as much as $66.7 million in loan guarantees.

Mr. HOLLINGS. The Senator from Louisiana makes a good point. The conferees had assumed that the program requires a 10-percent subsidy appropriation.

Mr. BREAUX. Although I disagree with the conferees' interpretation, I can appreciate the desire to limit the Federal Government's exposure to risky loans. A $27 million appropriation was needed in 1985 to cover losses incurred by the loan program after the collapse of the shrimp fishery in the early 1980's, however, the program has been restructured since then. Fees collected from program participants were increased in 1986, and a policy was implemented prohibiting loan guarantees for vessels in overcrowded fisheries. Over the last 5 years, according to Congressional Budget Office and agency calculations, the program has been operating at a profit. Furthermore, the fishing industry has expressed a willingness to increase the fee structure once again to provide even greater security for Government loan guarantees.

Mr. HOLLINGS. If the Senator would yield. His example of overcapitalization in the shrimp fleet represents a fear many people entertain when talking about loan guarantees for the fishing industry. The problems with fisheries in other parts of the country, for example in New England, have prompted buy back bills in the House that could place a significant drain on the Government's fiscal resources. With regard to the estimated subsidy rate, I agree there may be a need for reestimation of the program's cost to the Government as well as developing a more appropriate estimate of the subsidy appropriation's buying power.

Mr. BREAUX. The Senator from South Carolina has focused on the essence of the issue involved here. In the Senate's original report on H.R. 2608, we declined to fund the program because it was felt that there were already "too many boats chasing too few fish." As my colleague is well aware, however, there are several aspects of our domestic fisheries that are in need of development. Underutilized fishery resources, such as whiting and mackerel, could help increase exports and provide alternative fisheries for fishermen and plantworkers in heavily exploited traditional fisheries. In addition, both vessels and shore-based facilities must be upgraded in response to new Federal requirements concerning employee safety, environmental protection, and food safety.

Mr. HOLLINGS. I can assure my colleague that I would be pleased to work with him to resolve this problem.

Mr. BREAUX. I want to thank the Senator from South Carolina. I appreciate his willingness to address these concerns and his recognition of the productive nature of this particular loan guarantee program.

In an effort to address some of these concerns, Mr. President, I offer this amendment and ask that it be printed in the RECORD.

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATION GUARANTEES" in Public Law 102-140 is amended by striking from the colon after the sum "1,000,000" through to and including the sum "$10,000,000".

This amendment does not increase cost to the Government. I am not trying to turn this bill into a Christmas tree, rather, I am simply trying to provide the flexibility necessary to increase the authorization limit currently available under the law—if such an increase is appropriate. Whether or not reestimation of the program's cost to the Government reflects greater, or reduced, buying power for the $1,000,000 subsidy appropriation, loan guarantees in excess of the $10,000,000 limit originally provided will not, by definition, add to the Government's overall cost.

The 10-percent subsidy cost relied upon by the conferees represents an erroneous, and rushed, first estimate given by FOG managers in NOAA. In a staff memorandum, the Congressional Budget Office lists the baseline fiscal year 1992 subsidy for the FOG Program at 4 percent; given the $1 million subsidy cost appropriation, this rate would apparently translate into an allowable $25 million in loan guarantee authorization. A closer look at the historical data from the FOG Program, however, reveals subsidy rates of 1.5 percent using 1970-91 loan performance—a rate that permits approximately $67 million in authorizations—and negative 4 percent based on 1986-91 loan performance, which translates into a $25 million credit for appropriators.

Loan guarantee applications should not be turned down as a result of an overly conservative subsidy cost estimate. Since 1986, the FOG Program has approved an average of $69 million in new guaranteed loans per year. According to the National Marine Fisheries Service, at least 46 persons this year have either applied, or want to apply, for guaranteed financing under this

program in the aggregate amount of $130 million. These numbers indicate a substantial need for loan guarantee authorization greater than the $10,000,000 million currently provided by law.

AMENDMENT NO. 1399

(Purpose: To require the termination of human rights abuses in order for Kenya to be eligible for United States assistance)

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1) and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

AMENDMENT NO. 1400

(Purpose: To express the sense of Congress that the President should recognize the independence of Ukraine)

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

Mr. D'AMATO. Mr. President, I rise as an original cosponsor of Senator DECONCINI's amendment in support of Ukrainian independence.

On August 24, 1991, the Ukrainian Parliament declared independence. On December 1, the Ukrainian people will reaffirm this declaration in a fair and free vote. It is my belief that the citizens of Ukraine deserve their freedom.

After more than 70 years of suffering, suffering that rivaled that of any oppressed peoples, the citizens of Ukraine will finally vote to walk away from their history of repression, oppression, and totalitarianism. A quick journey through the history of suffering in Ukraine reveals millions of deaths in the forced famine of 1932–33, millions more dead during World War II and an unknown, but tremendous death toll, in the gulags of Siberia.

Mr. President, the history of suffering in Ukraine and the determination to go on marks a significant trait of the Ukrainian people; they are survivors. And now, after 70 years of suffering, punishment, loss of loved ones, and unimaginable repression they have emerged to see a new light. The light of freedom. The light of self-determination. The light of a new world order, full of unknowns.

The citizens of Ukraine take a tremendous risk in following the path toward independence. Yet, they are willing to take this risk, they want to take this risk, because they know that a new day has come and that their rights will never again be stomped by the boot of oppression.

They realize that the fight ahead will be long and hard. Yet, they have chosen to carry on this fight. I have tremendous respect for the character of these people. By choosing independence, they have decided to walk through the darkness in order to see the light of freedom. It is our moral duty to stand with them.

Many potential problems are evident in an independent Ukraine. From ethnic tensions to the widely reported nuclear arms arsenal on their land, it is my firm belief that Ukrainians, energized by the power of freedom, will approach these problems within an honest and democratic forum, where decisions are made based on the will of the people rather than the power of the sword.

The Ukraine must establish itself as the guarantor of peace and freedom within its borders and the world community. With the support of the United States, other democracies, and the guiding light of freedom, I believe they can achieve this goal.

AMENDMENT NOS. 1401, 1402, 1403, AND 1404 EN BLOC

Mr. HATFIELD. Mr. President, I send a number of amendments to the desk that have been cleared on both sides, one on behalf of Mr. SPECTER, Mr. HARKIN, Mr. KENNEDY, and myself; one on behalf of Senator THURMOND and Senator HOLLINGS; two for the Senator from New York, Mr. D'AMATO.

I ask that they be considered en bloc, agreed to en bloc, and that the motions to reconsider and table be agreed to en bloc, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Numbered 1401, 1402, 1403, and 1404) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1401

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the De-

partments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

• Mr. HARKIN. Mr. President, this amendment simply clears up a problem faced by health professions students who are seeking federally guaranteed HEAL loans to pay for school.

The problem was caused when the authorization for the HEAL program expired in fiscal year 1991. Since the start of this fiscal year, HHS has refused to guarantee loans to new HEAL borrowers. The Department even sent a memo to HEAL lenders on November 8 stating that, "until Congress reauthorizes the HEAL program, lenders may make HEAL loans only to previous borrowers."

This action by HHS has left almost 10,000 first-year students without access to loans to help pay for their schooling. I am particularly concerned about this because I have been contacted by the Palmer College of Chiropractic, in my home State.

With so many areas of the Nation suffering from shortages of doctors and other health professionals, we need to do more, not less, to help students of the health professions.

I recommend adoption of this amendment, which will allow these students to get the funds they need to attend school.•

Mr. HATFIELD. Mr. President, the Health Education Assistance Loan [HEAL] Program insures loans to students in the health professions. Eligible student borrowers obtain loans from participating commercial lenders, educational institutions, State agencies, insurance companies, and pension funds. The repayment of principal and interest is guaranteed by the Federal Government if the borrower becomes permanently disabled, dies, or defaults on the repayments.

On October 4, 1991, the Department of Health and Human Services notified lenders throughout the country that loans in fiscal years 1992 under the HEAL Program could only be made to prior HEAL borrowers. According to the Department, new HEAL loans cannot be made until Congress reauthorizes the program. Program authority expired on October 1, 1991.

This position is contrary to the intention of the Labor, HHS, and Education Subcommittee which included a loan limitation of $290,000,000 for fiscal year 1992 in the recently vetoed Labor, HHS, and Education appropriations bill. It also is contrary to the intent of the chairman of authorizing committee, Senator KENNEDY, as expressed in a colloquy during the Senate's consideration of the conference report accompanying H.R. 2707 on November 7, 1991.

An estimated 10,000 medical, dental, and other health professions students throughout the country are depending on receiving new loans. In most cases they already are attending classes and are receiving deferrals from the institutions for tuition payments. Many, however, depend on these loans also for living expenses.

The amendment makes clear the intent of Congress that loans in fiscal year 1992 under the Health Education Assistance Loans Program be available to both prior year borrowers and new borrowers. There are no costs to the amendment. The total number of loans still would be limited to the ceiling set for the HEAL Program by the amendment and by H.R. 3839, the Labor, HHS, and Education and related agencies appropriations bill for fiscal year 1992. I urge my colleagues to support the amendment.

AMENDMENT NO. 1402

(Purpose: To permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities and to permit States to use forfeited real property for State parks)

SEC. . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

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

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) in the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

Mr. THURMOND. Mr. President, I rise today to offer an amendment for myself and Senator HOLLINGS. This amendment will permit the Secretary of Health and Human Services to waive certain Federal recovery requirements regarding the construction or remodeling of community mental health facilities. It includes the text of S. 1891—which passed the Senate unanimously on October 30, 1991—and an additional unrelated provision concerning the use by States of forfeited real property as public parks.

Under section 2713 of the Public Health Service Act (42 U.S.C. 300aaaa-12), the Federal Government may recover certain Federal construction funds used in building a community mental health center in two situations. In the first situation, the Federal Government may recover funds if at any time within a 20-year period after a center is constructed, the center is either sold or transferred. In the second case, the Federal Government may recover funds if a center "ceases to be used by a community mental health center in the provision of comprehensive mental health services."

In the latter situation, the Secretary of Health and Human Services may waive the recovery rights of the Federal Government (section 1713(d) of the Public Health Service Act, 42 U.S.C. 300aaa-12(d)) if the Secretary determines that there is good cause for waiving such rights.

By way of background, the waiver authority was included as part of the 1985 amendments to the Public Health Service Act. Unfortunately, the legislative intent of this provision is not entirely clear. The legislative history does not clarify the reason for authorizing the waiver authority in the second situation—where a facility ceases to be used as a mental health facility—and not in the first, where there is a sale or transfer of property. Nevertheless, it is reasonable to assume that one of the underlying purposes for the Federal right of recovery is to ensure that comprehensive mental health services are provided to the community for 20 years.

The Office of General Counsel at the National Institute of Mental Health [NIMH] has construed the waiver provision narrowly. Even though a facility may cease to be used as a mental health center, if a sale or transfer happens to be involved, no waiver would be available. In effect, the interpretation given by NIMH is that no waiver can be obtained where there is a sale or transfer of property, even though the new mental health center is larger, provides improved services, or is in a better location than the former facility. Surely this anomalous result was not intended.

Because of my concern with these unforeseen and unfortunate consequences, I am today introducing an amendment which would permit a waiver where a sale or transfer of property is involved. This does not mandate a waiver. Rather, it simply gives the Secretary of Health and Human Services authority to grant a waiver not only where a facility ceases to provide mental health services—as under current law—but also where a sale or transfer of property is involved.

Mr. President, by way of example, the Coastal Empire Mental Health Center in Beaufort, SC, desires to cease operations at its current location, and

move to another nearby site provided by Beaufort Memorial Hospital, a local public hospital. The old site would become part of a new $23 million expansion of the hospital, which provides a large volume of free and below-cost medical care to the residents of the five counties surrounding Beaufort. On the new site an expanded and vastly improved mental health center would be constructed.

All the county and State governing bodies involved or affected by this proposal strongly support it, but because of the interpretation of NIMH on sales or transfers, the mental health center is not eligible for even consideration of a waiver. This is very disturbing, particularly where the equities and reasons for moving to a new facility are overwhelming. Accordingly, it is my hope that this legislation will prevent this and other such anomalous situations in the future.

Finally, included at the request of some Members of the House of Representatives is a provision relating to the use of forfeited real property as public parks. While there is general agreement on this latter provision, the Department of Justice has raised some reasonable concerns which I may wish to raise at a later date.

I appreciate the managers consideration of this amendment and I urge its adoption.

Mr. HOLLINGS. Mr. President, today I join my colleague Senator THURMOND to introduce a clarifying amendment which would permit the Secretary of Health and Human Services to consider a waiver of certain Federal recovery requirements in construction or remodeling of community mental health facilities.

Prior to 1985 amendments to the the Public Health Service Act, waiver of Federal right of recovery of construction funds could be considered when a community mental health center "cease[s] to be used by a community mental health center in the provision of comprehensive mental health services" or if the facility was "sold or transferred" within a 20-year period. Amendments passed in 1985, however, specifically retained such waiver authority only in the event of cessation of services and did not address sale or transfer.

Virtually no legislative history exists, but it clearly was the intent to ensure that comprehensive community mental health services be provided for 20 years if any Federal funds are used in the construction of the facility, and with this purpose there is no disagreement. However, the Office of General Counsel at the National Institute of Mental Health has interpreted the 1985 amendments so narrowly as to preclude any consideration of waiver if a sale or transfer is involved—even though a facility may cease to be used as a mental health center and the proceeds would be utilized to provide improved or expanded services in accordance with the original grant conditions. Failure to allow consideration of waiver in the event of sale or transfer, however, has led to unanticipated consequences. For example, Coastal Empire Mental Health Center in Beaufort, SC, wishes to sell its existing facility to Beaufort Memorial Hospital, a local public hospital, and to relocate to a new site at an expanded and vastly improved mental health center. The old site would become part of a new $23 million expansion of the hospital, which provides a high volume of indigent care in a five-county area. The result of the proposed sale and transfer would be improved services for both medical and mental health patients, and all State and local governments involved or affected strongly support it. When Coastal Empire submitted its plan to NIMH, the following response was received to the request: "While NIMH recognizes the worthy intent to expand and improve mental health services in the Beaufort area, based on its review of 42 U.S.C. 300aaa-12 and on advice of the Office of the General Counsel, we have determined that the law does not authorize a waiver of the Federal right of recovery when a community mental health center facility is sold or transferred to an entity that does not plan to use it as a CMHC in accordance with the original grant conditions."

It is reasonable to assume, since many CMHC's were constructed 15 or more years ago, that the experience of Coastal Empire is not unique and that more such situations will arise over the next few years as grantees outgrow their current facilities. We need to correct the statute to permit consideration of waiver so that the real intent of the law—provision of comprehensive community mental health services—can be met.

Mr. President, the amendment we offer today does not grant a waiver to Coastal Empire Mental Health Center or any other community mental health center. It merely permits the National Institute of Mental Health to consider waiving Federal recovery for a center which wishes to utilize the sale or transfer of its facility to continue provision of services or to expand or improve services under its original commitment. There is no cost to the Federal Government associated with this amendment. Rather, as would be the case if such a waiver could be granted to Coastal Empire, improved services could be provided to more needy individuals at no cost to the Federal Government. Too seldom do we get to do something that makes sense, helps people in need, and does not cost anything. I urge your consideration of this amendment.

AMENDMENT NO. 1403

(Purpose: To appropriate additional funds for the Department of State Terrorist Information Rewards Fund)

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

Mr. D'AMATO. Mr. President, Americans are the most frequently attacked nationality in the world. In 1990, there were 455 terrorist incidents worldwide and nearly half of them, 197, were against American targets. In these attacks, 10 Americans were killed and 34 injured.

On November 14, 1991, the Justice Department indicted two Libyan intelligence officials for the murder of 270 innocent people, 189 of whom were Americans, including 35 young students from Syracuse University.

Yet, these cowardly criminals are safely protected in Libya, far from the reach of American justice. How can we get them? One way is to offer cash rewards for information leading to their apprehension.

Presently, cash rewards are available through a reward fund in the State Department. My amendment would appropriate $5 million to this fund. It would make additional money available to be used to reward people with information that could prevent atrocities such as the bombing of Pan Am flight 103, or capture those responsible for them.

The Department of State has indicated to me that it supports my amendment to appropriate these funds. It is also my understanding that this amendment is acceptable on both sides.

Used at the Secretary of State's discretion, with the concurrence of the Attorney General, money from the fund rewards any individual who furnishes information leading to the arrest or conviction of any individual or group of individuals that conspires or attempts to commit an act of terrorism against an American national or American property.

Funding the State Department fund would facilitate the November 14, 1991, Justice Department indictment against the two Libyan agents, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi.

The offer of a significant sum of money—as much as $2 million on any single reward—could make a critical difference in persuading someone to come forward with information that could prevent a bombing such as that of Pan Am flight 103, or lead to the capture of its perpetrators.

We must send a message to the criminals who kill Americans. There is a price on your head. We will find you.

I urge my colleagues to support my important amendment.

AMENDMENT NO. 1404

(Purpose: Expressing the sense of the Senate that the President of the United States should pursue by any and all legal means the apprehension of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi for trial)

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plane, Pan Am flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has led to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am flight 103; and

The families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

Mr. D'AMATO. Mr. President, my amendment calls on the President to pursue by any and all legal means, the apprehension, for trial, of Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi, as charged by the Justice Department for their roles in the destruction of Pan Am flight 103 and the murder of 189 Americans aboard.

These heinous murderers are charged with obtaining both the bomb and the timers and planting it aboard the plane. These purposely conspired to kill all the passengers.

My amendment calls on the President, should offer rewards for information leading to the arrest and return to the United States of the two Libyan agents for trial.

It also states that the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie doctrine, the doctrine upheld by the Supreme Court, that allows for the extraterritorial apprehension of wanted terrorists.

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost 3 year investigation of the destruction of Pan Am flight 103.

And the families of the victims of Pan Am flight 103 have suffered untold grief at the loss of their loved ones.

Finally, my amendment states that the investigation of the bombing of Pan Am flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for the commission of this terrible crime, no matter where they may be located.

We must send the message that wherever these cowardly criminals go, we will find them and bring them to justice. They must be apprehended. It is our duty to the memory of all those killed by their evil intent.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 1405

(Purpose: To amend the Harmonized Tariff Schedule of the United States to clarify the classification of certain motor vehicles)

Mr. D'AMATO. Mr. President, I rise today to discuss an amendment which is intended to close not only a loophole but an incredible gap that has been deliberately created in the vehicle import tariffs schedule that offers imports a competitive advantage against our domestic manufacturers.

Mr. President, each year this so-called loophole which I have to say is shocking, which is outrageous, which is anticompetitive, costs the U.S. taxpayers close to $0.5 billion a year.

So unlike most times when most of us come forward and we have a good program, a necessary program, we advocate it, and we are met with the budget constraints, I am coming forward today to offer an opportunity to bring about fairness in economic competition to increase jobs in America, to actually increase jobs here in America, and to provide 0.5 billion dollars' worth of additional revenue.

I have not even suggested an offset—that we spend it somehow. One-half billion dollars we can give to the taxpayers of America, We can reduce the deficit by $0.5 billion.

That sounds amazing. It truly is. It is amazing because when I go through the story of how this came about, I think that all of us should be shocked. I have no illusions in terms of what we are dealing with here, in terms of the entrenched, established, powerful groups that will rise in opposition and will come forward with some kind of contorted reason to oppose this.

I suggest that how this came about is a shocking, an arrogant display of broad, naked power and display of power that flies in the face of what is good for America, this country, and its people.

This amendment, as I said, not only raises millions of dollars in lost revenue but at the same time is a significant step toward restoring fairness to the United States-Japanese trade relations. The Japanese lobby gained a major share of our United States market for the multipurpose vehicles, MPV's.

What are we taking about? I am talking about vehicles like the Chevy Blazers, Ford Explorers, Jeep Cherokees. They did it by influencing—I use that word very carefully—by influencing the U.S. Treasury Department to classify certain foreign-made, multipurpose vehicles as cars instead of trucks for the purposes of import tariffs.

You see, the U.S. tariff that was imposed and is imposed on foreign-made trucks, the MPV's was 25 percent instead of only 2.5 percent on foreign cars. Vehicles classified as cars can be imported therefore much, much more cheaply when they penetrate the U.S. market.

So, consequently, by having the classification changed from a car, or to a car from a truck, they have $3,500—$3,500.

When the classification became a problem in January 1989 when the U.S. Treasury Department overruled a U.S. Customs Service decision which called a truck a truck and basically what we saw was that the Customs Commission in reviewing this matter, being called upon by the various lobbyists, the Japanese lobbyists, to make a review said obviously this is a truck. And it would not allow them to enter it designated as a car.

However, their decision was taken to the Treasury Department. There is no rational explanation for Treasury's ruling, but it found that this vehicle suddenly was no longer a truck. It became a car.

Understand what it did. It saved at least $3,500 in tax, in a tariff tax, that would have been paid to the U.S. Treasury. That meant that the taxpayers of this country were losing $500 million in revenues. There is no rational explanation for Treasury's ruling. The following facts will make that clear.

Foreign-made MPV's must meet U.S. Government standards, just like domestic vehicles. The standards are less stringent for trucks than for cars. Four different U.S. regulators must decide the classification is based on established standards.

I will show you the chart, the Environmental Protection Agency. EPA sets emission standards. The National Highway Traffic Safety sets various standards, and the Department of Transportation sets fuel standards.

Under each of these three regulators, these MPV's multipurpose vehicles are classified as trucks: EPA, a truck; the Department of Energy, a truck; the Department of Safety Standards, a truck.

How can a truck under EPA, a truck under the National Highway Transportation Safety Association, a truck under the Department of Transportation be a car according to Customs, the Treasury Department? How can a truck be a car?

The Job Fairness in Trade Equity Act, which I am going to be introducing, provides for a clarification to the U.S. tariff schedule. My bill simply requires that any vehicle classified as a truck for emission standards or a truck for fuel economy standards will be classified as a truck for tariff purposes.

In other words, you cannot classify it under EPA standards for emissions because the truck emission standards are much less. They are much less stringent. Therefore, the classification as a truck for one of these vehicles means that they do not have to meet those standards set for a car. The same is true as it relates to the miles per gallon.

If it is a truck, it does not have to meet the 26.5 miles per gallon test. We cannot and should not allow this practice to continue, because the consequences of our inaction on this measure are twofold: First, the U.S. taxpayer loses one-half billion dollars a year in forgone tariff revenues; second, we are subsidizing and supporting auto manufacturers and workers in Japan at the expense of workers in the United States. And while employment in the Japanese auto manufacturing industry has been growing, United States industry has lost 138,000 jobs over the past 5 years.

Mr. President, continuing this practice will mean that Japanese auto manufacturers pay less taxes and sell more vehicles, while the United States manufacturers sell fewer vehicles and U.S. workers lose their jobs.

Mr. President, I am going to give, if I might, a little timetable. In 1987, there was a growing demand for light trucks. People love the light trucks and multipurpose trucks. There was a growing demand for them and these family vehicles. The Japanese found there was an unfilled quota under the VER. The Japanese began to reclassify light trucks as passenger cars.

In the spring of 1988, the U.S. Customs initiated a review process of possible abuse of tariff regulations by the Japanese. This review was requested by U.S. companies and lasted almost 1 year. On January 4, 1989, the U.S. Customs ruled that light trucks could not be classified as cars. Commissioner von Raab said: "A truck is a truck is a truck."

Well, Japan acted swiftly. They organized their counterparts from Germany and Britain to contact the Secretary of Treasury to ask for reconsideration. The Secretary agreed to reconsider the U.S. Customs decision. Within 9 days, the U.S. Customs' decision was suspended.

Japan moved to kill the ruling permanently via a promotional campaign that the Customs ruling would harm United States consumers by increasing the price of light trucks. The big three U.S. auto manufacturers unified and sent letters to the President and Congress asking that the U.S. Customs original ruling stand. Within 45 days of the original U.S. Customs ruling, the Treasury Department overturned the decision and said that a truck is not always a truck, but that, for tariff purposes, it would be considered a car.

Then the Japanese convinced the administration to reclassify the vehicles as a truck once they were inside the United States, therefore meeting the less stringent truck standards for safety emissions and fuel economy standards.

Question: Will this decision hurt the consumers by forcing price increases? The answer is no. Until 1988, more than 98 percent of these vehicles were brought into the United States as trucks, and they paid their tariff of 25 percent. So this cost was already built into the importers' pricing margins. And if the importers' claim that there would be a huge impact were true, that would be different.

Mr. President, they did not reduce their prices to the consumers, reflecting the lower tariff. They passed on no-price reduction. So I think these claims about prices going up—which we will meet and we will hear how this is an anticonsumer, anticompetitive measure—are specious.

Let me, before I conclude, go through this again. Mr. President, what we have seen here is a clear case of incredible influence and power that was used at the expense of the American workers, the American consumers, and the American Treasury. On the business that this is going to create lower prices, et cetera, and more competition, we see that has not taken place. We see that the prices have not gone down to the consumers.

On the fact that a truck, for EPA emission standards, certainly should be a truck for all others, a truck for the standards as related to highway safety, a truck as it relates to miles per gallon, but a car when it comes to customs—why? Why has the same vehicle now turned into a car? It turned into a car simply because it saves the Japanese exporters $3,500.

Mr. President, the people sense that something is wrong. I believe that the people sense when Government is not responding to their legitimate needs and concerns, and as it becomes so heavily influenced by those who seek to gain material advantage, where fairness is a word that disappears, where equity is a word that has no meaning, where indeed the power of the special interest groups has become paramount.

How can you bring in a vehicle, which is a truck, and have it reclassified as a car, simply to escape the payment of $3,500? And then, so you do not have to meet the more stringent EPA standards as it relates to emissions, as it relates to fuel economy, have it reclassified as a truck? Either it is a truck for EPA, either it is a truck as it relates to the Department of Transportation, or it is a car. But to say that it is a car to come in, so that you can save $3,500, and then it becomes a truck for the classification of emission standards, and it becomes a truck for the classification of the Department of Transportation economy standards, is wrong. It is simply wrong. And at the same time, we see the American auto worker losing his job.

We wonder why the Japanese market goes up. Here we have a clear indication that while the U.S. auto market and workers have decreased from 867,000 jobs to 729,000 jobs, we see the Japanese auto market from 1987 to 1990 increasing.

I suggest to you that we are going to continue to lose jobs if we have these unfair predatory pricing practices, because that is exactly what this is. And if we have our own Government that interprets the rules the way it wants, not related to any fairness, not related to any real standards, but related to the special interest groups who are calling the shots, it is wrong.

What about the little guy? What about the taxpayer? What about the $3,500 that we are losing on every vehicle? Last year, they estimated that 135,000 vehicles came into this country, 135,000 that, by any reasonable standards, were trucks. But because we had this fast ruling, the overturning of the Customs Commissioner's ruling that a truck was a truck, except when it came to the special interest of the Japanese, when it came to saving $3,500 on average on each and every one of these trucks, this truck mysteriously became a car.

How are we going to compete against this? What is the American taxpayer to think? What is the little guy to think? What about the fellow in that factory working as hard as he can with a commitment to excellence? They cannot compete against this.

You wonder why auto workers become discouraged, and why plants become discouraged. You cannot compete against this. I cannot believe it, but we are doing it to our workers, to our own people, to our own taxpayers. What are we doing? We are disadvantaging them. It is unethical, unprincipled, and it is wrong.

Mr. President, I will soon send an amendment to the desk, but before I do, I want to say that I have no illusions as to what is going to take place here. I am simply going to say this amendment says that a truck is a truck is a truck. If it is a truck for all of the other purposes to meet the EPA requirements, if it is a truck to meet the fuel economy requirements, if it is a truck to meet the fuel safety requirements, then it should be a truck as it relates to the customs requirements.

Let me also say, Mr. President, coincidentally, before I conclude, that this same truck became a car last year for the purposes—and by the way, the Treasury Department did this; the Treasury Department did this. As it related to the luxury tax placed upon them, they said: Well, for this purpose, we will make this a car, because the car—or this car became a truck for the same purposes, because we would make them exempt; trucks are exempt.

So within the Treasury Department, we have two different rulings as it relates to the luxury tax. We find it is a truck because it escapes the payment of that luxury tax.

I am not suggesting that it should not be a truck for all purposes. I am suggesting that it is inconceivable—inconceivable—that we would find that this is not a car so that it can escape the $3,500 that it should be paying. I think it is unfair. I think that we should do something. I do not believe we are.

I think we will find on technicalities that the people will be denied the opportunity to have fairness applied. I think that is the kind of thing that many people are saying: Something is wrong here. And we have the vested special interest groups that will rise up with the chorus of how this is anticonsumer. And they will simply turn their backs on how it is that this classification came to be, who was behind it, and why it took place. And I am just suggesting it should not continue.

Mr. D'AMATO. Mr President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1405.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

3. any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082-2 of title 40 of the Code of Federal Regulations (as an effect July 1, 1990);

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

The PRESIDING OFFICER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The President pro tempore is recognized.

AMENDMENT NO. 1406

(Purpose: To revise a provision of the classified annex incorporated into the Department of Defense Appropriations Act, 1992)

Mr. BYRD. Mr. President, I send to the desk an amendment which has been cleared on both sides, an amendment by Mr. NUNN and Mr. WARNER, and ask unanimous consent that it be agreed to and the motion to reconsider be laid on the table.

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

So the amendment (No. 1406) was agreed to, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

Mr. NUNN. Mr. President, I am offering an amendment on behalf of myself and Senator WARNER to the supplemental appropriation bill that actually relates to a provision in the fiscal year 1992 defense appropriations conference report, which the Senate will consider at a later time. It is necessary to offer this amendment on this supplemental appropriations bill because the defense appropriations conference report cannot be amended.

The amendment I am offering concerns a classified program, the details of which I cannot discuss here today. I can say that the conferees on the Defense Authorization Act and the Intelligence Authorization Act all came to an agreement on this program. We agreed that the administration could not proceed to full-scale development on this program in fiscal year 1992. Funding was also fenced with certain requirements on the Department of Defense. The classified annex to the National Defense Authorization Act, which was incorporated into the act, contains a provision that reflects this agreement. Likewise, the classified annex to the Intelligence Authorization Act contains a provision that is in accord with this agreement.

However, a provision was included in the classified annex to the Defense Appropriations Act that is inconsistent with and contradicts this agreement. That is why this amendment is necessary. I have spoken with the individuals on the appropriations committees who were involved in this matter. I do not believe this was intended since the authors of the appropriations provision were party to our negotiations. They now understand that the provision in the appropriations bill does not reflect our collective agreement. I want to emphasize that the authors of the appropriations provision in question have agreed to accept this amendment.

Unfortunately, the authors of the appropriations provision do not have a mechanism to correct their provision, since the House has already passed the defense authorization, intelligence authorization, and defense appropriations conference reports. Over here, the Senate has passed the defense and intelligence authorization conference reports. The defense appropriations conference report, as I mentioned earlier, cannot be amended.

Moreover, Mr. President, because the classified annexes to these conference reports have the force and effect of law, they can be changed only by an act of Congress. That is why I must offer this amendment to the supplemental appropriations bill.

I understand that this amendment is acceptable to all the parties involved. The amendment simply conforms the Defense appropriations bill to the Intelligence and Defense authorization acts in a manner which was understood to be the agreement. I urge the adoption of this amendment and thank the Chair.

AMENDMENT NO. 1405

The PRESIDING OFFICER. Is there further debate?

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD. Is the Senator ready to vote?

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New York?

The distinguished President pro tempore is recognized.

Mr. BYRD. Mr. President, the distinguished Senator from Texas [Mr. BENT-

SEN] the chairman of the Finance Committee, wishes to speak on this amendment.

I, therefore, ask unanimous consent that if the distinguished Senator from New York has no problem with my doing so, that his amendment be temporarily laid aside so that an amendment by Mr. LAUTENBERG may be—I understand Mr. LAUTENBERG has an amendment—he may call up his amendment; and with the further understanding that when Mr. BENTSEN reaches the floor, Mr. BENTSEN may be recognized to speak in opposition to the amendment by the Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. If the chairman of the Appropriations Committee would abide a question here. Is the suggestion being made that if I am in the middle of my remarks, that I halt at that point, or finish?

Mr. BYRD. No. I only suggest that the distinguished Senator be aware that Senator BENTSEN is going to be on the floor, and at the convenience of the distinguished Senator from New Jersey, he would yield to Mr. BENTSEN at whatever point he wishes to yield.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, might I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ABORTION RIGHTS AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to offer an amendment that would reverse current Department of Defense Policy and allow servicewomen and military dependents access to safe and affordable abortion services in overseas military medical facilities. I am offering this amendment because, like a clear majority of Senators in this body, I see the injustice of the administration's policy. But I am also offering this amendment because this same provision was dropped narrowly by the Defense appropriations conferees last week even though a majority of my colleagues supported this amendment in the Defense appropriations bill. My colleagues who switched their votes told me that they would support this amendment if it was not on the Defense appropriations bill. They told me that the President would veto the entire Defense appropriations bill over the provision. Well, now I am heeding my colleagues suggestion and am offering this amendment. I want to take a few minutes to explain this issue to my colleagues.

Once again, Congress has to take action to prevent the further erosion of the constitutional rights of American women. This action is necessary to overturn a 1988 Reagan administration directive prohibiting American servicewomen and military dependents access to privately financed abortions in overseas military medical facilities.

Mr. President, like the gag rule, this directive came from nowhere and is an affront to every affected service person or dependent. From 1982 to 1988, servicewomen and military dependents could receive safe, privately funded abortion services in overseas military medical facilities. Then in June 1988, the Assistant Secretary of Health Affairs at the Department of Defense arbitrarily overturned existing policy without any direction from Congress or warning to the public.

The Assistant Secretary of Defense for Health Affairs took this action while conceding that providing privately financed abortions in overseas military medical facilities "does not violate the legal prohibition" against using Federal funds for abortions. The Reagan administration decided to ban such abortions anyway.

Mr. President, the issue here is whether or not a servicewoman or dependent who is stationed overseas leaves her constitutional rights at the U.S. border. In countries like the Philippines, Panama, and Saudi Arabia, abortion is not permitted. A servicewoman who seeks to terminate a pregnancy in those countries must either try to obtain an unsafe, back alley abortion or travel all the way back to the United States or some other country, where the service is available.

Mr. President, the U.S. military initially built U.S. medical facilities on our bases overseas because our service members are often stationed in countries where safe health care is not available. Since 1988, however, if a servicewoman wants to terminate an unintended pregnancy while stationed overseas, she does not have access to safe medical care. She has access to butcher knife care. And the result is severe medical complications. Not only does this Department of Defense policy rob women of their rights; it forces them into life threatening situations.

Mr. President, we should not treat our dedicated servicewomen as second-class citizens when they serve our country overseas. To the contrary, that is the time when we ought to make sure that every service that is available to our military is there and available to them. Do the opponents of my amendment think this policy is a good way to reward our brave and courageous servicewomen? Would we force our Nation's servicemen to travel all the way back to the United States to receive treatment for prostate cancer?

Mr. President, I also want to set the record straight on a few issues that have been distorted by proponents of this reprehensible policy. First, this amendment does not violate the statutory ban against using Defense funds for abortion established in 1984. It simply returns U.S. policy to the way it was from 1982 to 1988 where servicewomen and military dependents could receive privately financed abortions in overseas military medical facilities.

Second, this amendment will not allow third trimester abortions or so-called postviability abortions. This provision upholds all existing military regulations regarding reproductive health care that the military has promulgated within the Roe versus Wade framework. These existing regulations prohibit third trimester amendments unless the life or health of the mother is in danger.

Third, military service branches already have existing regulations that require parental notification for minors before any major medical procedure, including abortions, can be performed.

Fourth, this amendment does not require any military health care worker to perform an abortion if he or she believes that it is against his or her ethical, moral, or religious beliefs. All branches of the service have so-called conscience clauses that allow military health care workers to abstain from performing procedures that violate their beliefs.

Therefore, Mr. President, this amendment is not about using Federal funds for abortions, third trimester abortions, parental notification or making someone perform an abortion against his or her will. This amendment is about protecting the constitutional rights of our servicewomen.

Mr. President, if there are any critics out there who think that this current policy is not having a traumatic affect on our servicewomen or military dependents, I wish they would read the letter that I have from Dr. Jeffrey T. Jensen, M.D., head of the Department of Obstetrics and Gynecology at the U.S. naval hospital at Subic Bay in the Philippines.

I ask unanimous consent that the entire text of Dr. Jensen's letter be printed in the RECORD.

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

HEAD, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY, U.S. NAVAL HOSPITAL, SUBIC BAY, REP. PHILIPPINES,

FPO San Francisco, CA, May 11, 1991.

Hon. LES AUCOIN,

Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN AUCOIN: I understand that you are reintroducing an amendment to the DOD Authorization bill, which you had sponsored in 1990, which would allow overseas active duty military and their dependents the option of obtaining an abortion at a

military treatment facility at their own expense. I would like to share with you some of the experiences I have had with this issue over the past two years at the U.S. Naval Hospital, Subic Bay, where I have served as a staff Obstetrician/Gynecologist, and Head of the Department of Ob/Gyn. They exemplify the danger and frustrations that our volunteer servicewomen and female military dependents are subject to in the Philippines. Hopefully these examples will help you and other members of Congress see even more clearly how the 1988 DOD prohibition against abortion at overseas hospitals has endangered women's lives and interfered with the readiness of our military.

First let me provide you with details of health care at the U.S. Naval Facility, Philippines, and contrast it with that available locally. The Naval Hospital is a 85 bed facility serving a patient population of about 17,000 active duty and dependents. It also serves as a referral center for the Fleet and Naval Station Diego Garcia. Our department provides comprehensive Ob/Gyn services to both active duty, retired, and dependent patients. Problems we are unequipped to deal with are transferred to other military treatment facilities. We have the equipment necessary to perform elective abortions, as it is identical to that used for spontaneous abortion. Olongapo City borders the base, and serves as the local liberty area for personnel. The community is known for its cheap bars and prostitution is a way of life for many economically disadvantaged women who flock to Olongapo. Needless to say, sexually transmitted diseases are common. I do not think our military leaders would be proud to show the parents of our sailors the lifestyle that is common in Olongapo. The Philippines is a third world country with high unemployment and a rapidly increasing population. Government population policies are severely restricted by the Catholic church. As a consequence, availability of contraceptive methods is low and the birth rate is high. Although abortion is illegal for any reason, it is commonly available. Procedures available range from abdominal massage and catheter insertion techniques of lay midwives to more sophisticated dilatation and curettage procedures provided by physicians. As all of these procedures are illegal, there is no quality assurance. I have visited the local hospitals. The facilities for legal procedures such as surgery and vaginal delivery are questionable. I can only imagine the facilities and equipment for sterilizing instruments in black market abortion clinics. One patient relayed a chilling story of instruments set to boil upon the stove, a technique ineffective against spore forming bacteria and certain viruses.

We admit about eight patients per year with complication from illegal abortion. In order to minimize this occurrence, I am outspoken and open when counseling my patients. I maintain an open door policy to any women needing information on options in early pregnancy. If a patient chooses abortion, I council her against obtaining the procedure locally due to the inherent risks involved in even the best clinics. If the patient intends to have a local procedure she is instructed to come to my clinic following the procedure for an examination to rule out infection or other problems. I fit them into my schedule without appointment. Unfortunately, many patients do not consult us, wrongly concluding that since the system does not support her choice a Navy physician will not be supportive or compassionate. Some even fear having their plans revealed to their (sponsor's) command. This has an obvious negative impact on the quality of the physician-patient relationship.

Not all illegal procedures result in complications. When problems do arise, however, there is a tendency to present late for legitimate care. Part of this is a suspicion of the system which initially denied care. It is against Navy regulations for active duty members to seek health care outside of the military system (unless referred by a military physician). An active duty woman suffering a complication might find herself in a "line of duty" investigation which could find her injuries non service-connected and ineligible for care in the military or VA system. If she suffered injury from faulty illegal care in the Philippines she also cannot be compensated through civil suits. Is this fair treatment for an individual who, having volunteered to serve her country, was guaranteed comprehensive health care as a benefit of service, and then sent overseas? To protect our patients, the unofficial policy we have adopted is to not document (in the medical record) illegal abortion as the antecedent cause of complications which may result in admission to our hospital. I imagine other facilities handle this problem in a similar fashion so accurate statistics on number of admissions for complications of illegal abortion may be impossible to obtain. Hospital administrators vary with respect to their concern and compassion for this problem.

I urge my patients to travel to Japan or the States if possible. This requires that a servicewoman take leave. For junior enlisted taking leave on short notice presents a problem, as leave is a privilege granted only if the needs of the command are met. As the safety of abortion procedures is inversely proportional to the length of gestation, delays contribute to morbidity. The servicewoman often finds herself in a situation where she must divulge (against her wishes) her most private decisions regarding her reproductive health. And she must do this in an environment which may be hostile to her intentions. Despite attempts at education by the Navy, the level of sexual harassment remains high. My patient could find this decision has a negative impact on her career if a supervisor is not supportive of a woman's right to choose abortion. Even after receiving permission from her command to take leave, my active duty patient faces the obstacle of obtaining transportation to a country where abortion is safe and legal. There seems to be some myth about the availability of government transportation to military personnel overseas. [In contrast to the situation for White House Staffers, air transport for military on leave is on a "space available" basis only, and flights do not occur every day. In addition, a flight may be canceled at any time. You may not sign up on the wait list for a flight until you are in a leave status, so chargeable leave time accumulates while you wait. The wait lists for the States is much longer than Japan. Furthermore, there is no guarantee of a return flight. This further increases time away from work anxiety, and expense. During peak transit times there may be no space available seats, resulting in the additional financial burden of commercial airline tickets.]

The predicament for active duty dependents is even worse as they are in a lower category of priority for space available flights (i.e. an active duty member on regular leave showing up on the day of a flight will get space before a dependent regardless of the duration of the dependent's wait). I know of at least two cases, one active duty enlisted and one dependent daughter, who were subjected to the increased morbidity and expense of a second trimester procedure secondary to wait involved for a space available flight. The fact that the risk of death and complications from their procedures was needlessly increased four fold left me exasperated and outraged. These are real people, military members (or their dependents) who volunteer their lives to defend their country and are denied the same standard of care available to other Americans.

For teenagers, the situation is more complicated and frightening. This problem is compounded by the local ruling which prevents minors (dependent children under 21) from access to health care, including contraceptive counseling, without parental consent. A recent survey done by students at our DODDS high school revealed that 61% of female and 81% of male juniors and seniors state that they are, or have been, sexually active. About 8-10 students carry a pregnancy to term each year. A comparable number have abortions. Combined, that number is roughly 10% of all female high school students (grade 9-12). In other words about 5% of all female high school students here will have an abortion! It is an unfortunate fact of life that not all families have perfect communication. Even the best parent-teenager relationships are strained by the intensely personal nature of sexuality and pregnancy. In families with dysfunctional communication, or where physical or mental abuse is present, it is unreasonable to assume that these issues can ever be openly discussed. Rather than confront an abusive parent (or disappoint a good one), teenagers often attempt to conceal their pregnancies and present late for prenatal care or abortion referral. Again, for those who choose to leave the Philippines for an abortion, the additional wait for transportation may add significantly to the risk of the procedure. The stories of young women who choose not to involve their parents and pursue illegal abortions locally horrify and sicken me. They are forced to travel to unsafe locations for the procedures. Often times the person performing the procedure cannot explain it in English. Prices are inflated to extorsion levels for Americans. Anesthetics are administered without appropriate monitoring. We have admitted two teens so far this school year for intravenous antibiotics and completion curettage following an illegal procedure. One, a high school junior was hospitalized for over 7 days. What impact this will have on her future fertility remains to be seen. In my opinion, it is only a matter of time before a teenage dependent daughter dies here from a complication of illegal abortion. Even legal termination presents serious difficulty for students. One of my patients, an intelligent high school sophomore who states she would have used a reliable birth control method had access to confidential care been available, went to Japan for her abortion, accompanied by her mother. Although she suffered no complications, she missed two and a half weeks of school due to flight delays.

Cases of fetal anomalies provide further insight into the arbitrary cruelty of the current law. We have the technology to screen for fetal malformations with high resolution ultrasound imaging, and detect chromosomal anomalies with amniocentesis and genetic studies. The military supports these diagnostic studies as they are the standard of care. Most patients are shocked to learn, however, that there is no federal funding for pregnancy interruption in the event that a

serious anomaly is found, even if the anomaly is significant enough to be 100% fatal! This is not abortion for birth control; these couples are usually anxious to conceive again. Often times these are couples who have delayed childbearing and planned their pregnancy. Let me illustrate this with an example from my own practice. A 23 year Marine Lance Corporal and his 21 year old wife were pregnant with their first child. An ultrasound was performed at about 20 weeks in order to confirm gestational age, as the patient had presented late for prenatal care. At that time, multiple fetal anomalies were discovered. Repeat studies were performed with the same conclusions; the anomalies were incompatible with extrauterine life. The patient and her husband were counseled regarding the findings, and options for continuing or electively terminating the pregnancy were discussed. Observing the deteriorating condition of the fetus through multiple exams, the parents felt unable to cope with continuing the pregnancy and requested interruption. Although they had previously been told that federal regulations would not allow the procedure in our hospital, they again requested we reconsider this in view of the severity of the anomalies. The case was presented to the Hospital ethics and executive committees; both refused to go against federal regulations. A Lance Corporal has a take home pay of about $865/mo. Exclusive of transportation and incidental expenses, the cost of hospitalization and labor induction termination in Japan is around $2,500. With no savings, this young couple had no choice but to continue the pregnancy. Just imagine what it feels like as a physician to have to tell a patient that although you have the tools and training to end her suffering you cannot do so. I presume it is easy for policy makers to abstract themselves from this situation and consider the issue black and white. But attempt to visualize the emotional pain this real life situation creates in both patient and physician. The heartache a mother feels with each fetal movement knowing that her baby will never live past birth, and that she must be continually reminded and tormented by this knowledge until her delivery. The sadness and helplessness her physician shares at every office visit and phone call. This young couple lived through this hell for an additional 10 weeks until the doomed fetus suffered an intrauterine death. The labor induction which followed was long and painful, complicated at delivery by the massive size of the fetal abdomen (secondary to ascites), which had developed during the last several weeks of the pregnancy. After a year this couple has conceived again, this time with a normal fetus. Physically the patient is fine, but the emotional scars of this unnecessary suffering remain in both her and me. I can't help but think that this young marine's vision of what his country is willing to do for him and his family, in return for his dedication and professionalism as a soldier, has been forever altered.

The current situation in the military provides me with insight into the problems we would see if abortion were not readily available in the United States. The powerful and wealthy would continue to receive safe care with terminations provided by sympathetic private physicians in their own offices. The "have nots" would be unable to access this type of care for several reasons. Primarily, as these patients have not developed long-standing relationships with a physician, the doctor would be unwilling to run the risk of criminal prosecution to treat the patient. I am certain that many military gynecologists have found themselves in the position to help someone they trusted and have terminated a pregnancy by camouflaging it as an incomplete or missed spontaneous abortion. I consider this to be more an act of kindness than civil disobedience. Unfortunately, those with the greatest need, the young junior enlisted where the financial burden falls heaviest—are unlikely to benefit from this relationship. I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal, and common in the civilian community.

It is appalling to me that the President of the United States, Commander and Chief of the military, sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. It is my opinion that the Navy's attachment to its Philippine base centers more on its use as a liberty port than a shipyard. The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

Thank you for letting me share my experiences with you. Although I personally feel federal funds should also be available for abortions, this legislation alone would significantly improve the physical and mental health of military women overseas. By allowing women the option of obtaining the procedure in military hospitals at their own expense, we would guarantee them access to safe treatment at a clean facility in a timely fashion. The preparedness of the military would be improved not only by reducing lost work days, but also by enhancing morale through this expression of empathy for women's issues. I appreciate your dedication to improving the health care of active duty and military dependent women. If I can be of any further help with this issue (or any other women's health care issue) feel free to contact me.

Sincerely,

JEFFREY T. JENSEN, M.D.

Mr. LAUTENBERG. I will paraphrase the letter, Mr. President. He talks about the medical treatment that has to be done when a back alley abortion fails. He talks about the endangerment of a woman's life and alerted us to the fact that this failure to provide these kinds of services is threatening to American citizens who are serving their country overseas.

My distinguished colleague, Senator WIRTH, of Colorado, who has worked long and hard on this issue during consideration of the Defense Authorization bill, inserted this letter in the RECORD previously. For those who have not read this letter, let me summarize a few items contained in it.

First, Dr. Jensen sees approximately eight patients per year with complications from illegal abortions. These women typically come forward with these complications late and are experiencing life threatening situations. In other words, the military will pay to treat a woman who suffers from a botched abortion but will not allow her to pay for a safe abortion at a military medical facility to prevent this. This is absurd.

Second, Dr. Jensen's letter discusses a case where a lance corporal discovered that her baby would die at birth after several tests. After receiving medical counseling, she elected to terminate her pregnancy. But in this case she had no constitutional rights. Her options were either to carry her pregnancy several months knowing that the child was going to die, get an unsafe back alley abortion in the Philippines, or fly to Japan and pay $2,500 to have a safe abortion if she could get leave or a flight, on a monthly salary of $965.

Third, Dr. Jensen documents how difficult it is for servicewomen to get leave and a flight to travel to another country to terminate an unwanted pregnancy. Often servicewomen are forced to disclose this very personal decision to terminate a pregnancy to a superior officer in order to get leave. Also, women who often have to wait to get a flight to another country often have their health put at risk and are forced to go through further trauma.

Mr. President, it is time to end this disgrace and restore the constitutionally protected rights of our American servicewomen serving abroad and military dependents. I urge my colleagues to support this amendment.

Mr. President, it is my understanding that, under a previous agreement, we are to recognize the Senator from Texas. I relinquish the floor for that purpose, but retain my rights to the floor.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Texas.

AMENDMENT NO. 1405

Mr. BENTSEN. I thank the distinguished Senator for his consideration and the chairman of the Appropriations Committee for giving me an opportunity to state my concern over this amendment.

I can well understand what the distinguished Senator from New York is trying to do here. What he is talking about is trying to raise this duty from 2.5 to 25 percent, as I understand it, to give it a truck classification. This is identical with a bill that he submitted back in August and that was referred to the Finance Committee. We, in turn, sent it to the administration; we sent it to the International Trade Commission for their comments.

Let me make one point very clear. This is a tax measure, and that is what

it is. Under the Constitution, those things have to originate on the House side. That is their prerogative.

What this would do is increase the taxes paid on light trucks. So it is a revenue measure. If we send that to the House on this bill, it is going to be blue-slipped. All the work that has been put in by the committee members on the Appropriations Committee, all of the concerns that rest in this piece of legislation will be for naught. And we are talking about this right when we are talking about adjournment. All wasted.

It took too long to get this bill to the floor. It is too important to be treated this way. We have nearly 150 different tariff measures like this one that have been introduced and referred to the Finance Committee. We cannot act on these until we have a revenue measure from the House. That is just the way it is. That is the Constitution.

Just today, the House Ways and Means Committee's subcommittees acted on a miscellaneous tariff bill covering 227 tariff measures.

Let me make a further point. My understanding is the administration, a Republican administration, opposes this amendment. They say that it conflicts with our international agreement obligations under GATT. And that is as well as the Customs Cooperation Council, that it would be extremely difficult to administer. These are their arguments against it.

I will move to table, I understand that the distinguished Senator from New York has talked on this at some length. I would be happy to yield him 5 minutes, 10 minutes, with the understanding that I do not lose my rights to the floor, if he would like to speak before I move to table.

Mr. D'AMATO. I appreciate it.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mr. D'AMATO. I appreciate my colleague's courtesies. I have indicated quite clearly that it was this administration that reversed the ruling of the Customs Commission, who found that, indeed, a truck is a truck. And that it is a truck for the purpose of EPA, a truck for the purposes of the Department of Transportation, and that it should be a truck as it relates to coming into this country.

Except I think we found some extraordinary influence outside of the realm of fairness, outside of the realm of what equity should be. It suddenly makes a vehicle that had been a truck for years and years, a car, so that it could escape its payment of a proper tariff. And that is what we have here.

I can appreciate the sentiment of my colleagues, and that expressed by the distinguished Senator from Texas, that we worked hard to get this bill here. But I think it is about time. We waited a long time to get the bill here. The American people have been waiting too long, the American workers have been waiting too long, for fairness. This is costing our producers jobs—our auto manufacturers, who manufacture the Chevy, the Jeep, the Cherokee, the others. This is wrong.

The American taxpayer has waited too long. We are talking about $500 million a year in lost revenue. I think we should find a way to deal with this. And, to be quite candid, I do not believe we are going to get fairness out of the House Ways and Means Committee.

If they want to blue slip it, let them do it. I was on this floor when I brought up a cutoff of trade with Saddam Hussein. I pulled down that amendment at that point in time. I pulled it down because we said, oh, my gosh, this will be terrible and it will be blue-slipped by the House.

When are this body and the other body going to begin to stand up and say what is right for the people?

I have to tell my colleagues something. When we move to table this, let us understand we are moving against fairness, we are tabling something that seeks equity, we are moving against correcting an inequity that has existed for too long. There is no reason, except the special interest groups that came in, for the Japanese to be motivated to unfairly say a truck is a car because they can save $3,500. That is what took place. It is that simple. It did take place. And we can say this is a revenue measure.

When are we going to stand up for the people and stop worrying about the intricacies of the institution and make the institution work for the people? That is the problem around here. That is the message the people are sending.

They are saying we are sick and tired of Government not responding to our legitimate needs; finding manners and ways and loopholes to keep from doing what we should be doing. If you can tell me reasonably why we will call it a truck—oh, it is a tax measure. It is a measure to see that taxes that should be paid will be paid?

I agree with my colleague this was the administration. Let us give them a chance to address the inequity that they have created, because this is an inequity. Let them take a look at it. Let it see the light of day. I do not know whether the President has seen this. I do not know whether he believes this is really fair. Let us see what he thinks, whether the present situation is fair and whether it should be changed.

How do we get it changed? Do we have to wait for a revenue measure to come through to deal with it? We will have to wait forever, and we have been waiting forever.

The distinguished Senator is right, this is the same legislation I introduced in August. I have no doubt if he had the opportunity to deal with this fairly and equitably, he would. As he rightfully points out, this measure does have to be generated from the House of Representatives as a revenue measure.

But I would appeal to my distinguished colleague. If they, the other body, seeks to take it down on a technicality, then that will be their obligation, that will be their shortchanging of the people.

I think we should act on behalf of the people, work for them, give them an opportunity to get the fairness and protection they are entitled to. And that is what this amendment is aimed to do, to bring about fairness.

Mr. BENTSEN. I would say to my friend from New York, it is not the substance of the amendment, as to the equity or inequity that is involved here. I would be willing to entertain that kind of discussion if the ground rules let us act on this. But my colleague's argument is not with the Government, it is with the Constitution. And we are not going to amend the Constitution on the floor this afternoon.

So, when you have that kind of limitation put on you, this then turns into what we down south call "show time.'

I do not blame the Senator for wanting to get it off his chest and he has strong feelings about it. I had questions as to the classification, too, and I remember the argument over that classification and how it came about, the argument between Customs and the Treasury, and finally the administration stepping into it.

But we cannot resolve that here. We have a Constitution to face. Revenue measures come from the House. Just today the Subcommittee on Trade of the Ways and Means Committee acted on 227 of these items. So they do act. But then we have to get it over here.

The Senator will have prime time to discuss his amendment and it will be relevant under the constitutional procedures of the Senate and the House. So, at this point, Mr. President, I move to table the amendment.

Mr. SANFORD. Mr. President, I appreciate the efforts of my colleague from New York to clarify a discrepancy in the way in which various agencies of the U.S. Government categorize certain vehicles. Most of these agencies consider numerous of these vehicles to be trucks, but the U.S. Customs Service has classified them as cars. This distinction dramatically affects the amount of customs duties assessed on these vehicles when they are imported.

Like the Senator from New York, I would like this matter to be clarified. However, I am afraid, as the distinguished chairman of the Finance Committee, Mr. BENTSEN, has noted, that if we pass this amendment, it will force the House to blue-slip the entire supplemental appropriations bill, that is, kill it because it did not originate in

the House as required by the Constitution. I cannot afford to let that happen. There are too many provisions in this bill that are crucial to my State, including provisions to help North Carolina farmers who have suffered significant crop losses in 1990 and 1991. The bill also includes much needed money for FEMA to offer assistance to those who have been the victims of disasters across the United States, including many in North Carolina who had their homes and businesses destroyed by Hurricane Hugo. Therefore, I must vote at this time to table the amendment of the Senator from New York.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—56

Akaka	Exon	Mitchell
Baucus	Ford	Moynihan
Bentsen	Fowler	Murkowski
Boren	Garn	Nickles
Bradley	Gore	Nunn
Brown	Graham	Packwood
Bryan	Gramm	Pell
Burdick	Grassley	Pryor
Burns	Hatch	Reid
Byrd	Hatfield	Rockefeller
Chafee	Inouye	Sanford
Cochran	Johnston	Seymour
Craig	Kassebaum	Simpson
Cranston	Kennedy	Smith
Daschle	Leahy	Stevens
Dodd	Lugar	Symms
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McConnell	

NAYS—41

Adams	Heflin	Riegle
Biden	Helms	Robb
Bingaman	Hollings	Roth
Bond	Jeffords	Rudman
Bumpers	Kasten	Sarbanes
Coats	Kerry	Sasser
Cohen	Kohl	Shelby
Conrad	Lautenberg	Simon
D'Amato	Levin	Specter
Danforth	Lieberman	Thurmond
DeConcini	Lott	Wellstone
Dixon	Metzenbaum	Wirth
Glenn	Mikulski	Wofford
Gorton	Pressler	

NOT VOTING—3

Breaux	Harkin	Kerrey

So the motion to lay on the table the amendment (No. 1405) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I will yield shortly to the Senator from New York for 30 seconds. But I would like for Senators to know about the list of amendments that I have in my hands. Mr. LOTT has an amendment. Mr. NICKLES has an amendment.

Does Mr. D'AMATO have another amendment?

Mr. D'AMATO. I do, but I believe the committee is ready to accept.

Mr. BYRD. Mr. D'AMATO has an amendment. Mr. LAUTENBERG has an amendment pending, I believe. Mr. CONRAD has an amendment. Mr. NUNN has three amendments.

Mr. COATS has an amendment. Mr. DOLE has an amendment. Mr. MCCAIN has an amendment. Mr. SPECTER has an amendment. Mr. KASTEN has an amendment. Mr. MURKOWSKI has an amendment. Mr. WALLOP, Mr. BOND, together with Mr. DANFORTH. Mr. BRADLEY has an amendment. Mr. STEVENS has an amendment. Mr. BINGAMAN, Mr. PELL, Mr. GORE have three amendments. Mr. BYRD has three amendments and Mr. HATFIELD three amendments. Does anyone else have an amendment?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. DOLE. I might say to the distinguished chairman that we are now doing a hotline to make certain we can accommodate, sort of put all of these in the basket, and that will be it. So we ought to have this information shortly.

Mr. BYRD. All right.

Mr. DOLE. That is on our side of the aisle.

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, are we asking also about second-degree amendments?

Mr. BYRD. I will shortly.

Mr. President, Mr. RIEGLE has three amendments. Mr. LEVIN has an amendment.

Mr. President, before anyone objects, I ask unanimous consent that the amendments I have listed, together with germane second-degree amendments thereto, constitute the only amendments that may yet be called up, with the exception that within 5 minutes from right now, if there are additional amendments called in on either side, we will add those to the list.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. There is a unanimous-consent request being propounded.

The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, reserving the right to object, I am not certain as to the contents of all of these amendments, but with respect to those amendments which are not appropriations matters but which constitute legislation on appropriations bill, I would certainly reserve the right to put in second-degree amendments, and I would tell my colleagues that this appropriations bill will not be a Christmas tree for every legislative matter that every Senator wants to have.

We have to understand that. If it is such, if it becomes such a Christmas tree, then there a number of baubles that I would want to put on which I think would engage us in conversation beyond Thanksgiving. I would hope that we would not do that because I support my chairman in the desire to get this bill out in its pristine form before Thanksgiving.

Mr. BYRD. Mr. President, I thank my friend.

Mr. METZENBAUM. Mr. President, reserving the right to object, I do not intend to object. Would the Senator from West Virginia please include on his list a possible amendment of the Senator from Ohio?

Mr. BYRD. I add one amendment by Mr. METZENBAUM.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS].

Mr. COATS. I also reserve the right to object, and I would like to add an amendment to the list.

Mr. BYRD. I have an amendment down for Mr. COATS. Does he wish two amendments?

Mr. COATS. We are consulting with Senator RIEGLE. We are working to see if we are working on one and the same. We will clarify that.

Mr. BYRD. So the list will be two amendments by Mr. COATS.

Mr. COATS. I appreciate that.

Mr. LEAHY. Reserving the right to object, I shall not. Does that show a Leahy agriculture amendment?

Mr. BYRD. It does not.

Mr. LEAHY. Could we add that to the list?

Furthermore that no points of order be waived by virtue of this request.

That Mr. SIMON be added to the list with one amendment; Mr. NICKLES, two additional amendments; two by Mr. KOHL; one by Mr. PRYOR; and one by Mr. BOREN.

Mr. JOHNSTON. Mr. President, did the leader reserve unlimited second-degree amendments for the Senator from Louisiana?

Mr. BYRD. Yes. That was in the request, the second-degree germane amendments.

Mr. JOHNSTON. Not necessarily germane.

Mr. BYRD. Oh.

Mr. JOHNSTON. Not relevant, not germane.

Mr. BYRD. Did the Senator wish to be listed for an amendment or two amendments?

Mr. JOHNSTON. Not knowing what the subject matter is, Mr. President, the problem is that there may be legislation on this appropriations bill which the Senator from Louisiana would oppose. If that is so, then we must get into other matters which are nongermane, nonrelevant.

I would just tell my colleagues this will not be a Christmas tree for legislation unless they are willing to deal with the matters which are of concern to the Senator from Louisiana, particularly energy matters.

I have been trying to get this floor to consider some energy matters which it was not willing to consider. If they are ready to consider it at this time, I am certainly more than anxious to do so. But if we are going to get into those matters, let us get all the way in. I am anxious to get home for Thanksgiving, but willing not to do so for a good cause.

Mr. BYRD. Then I amend my request as follows:

Provided that if any energy amendments, any amendments, any energy amendments are offered, the Senator from Louisiana may offer some second-degree amendments thereto.

Mr. JOHNSTON addressed the Chair.

Mr. BYRD. Not necessarily germane ones.

Mr. JOHNSTON. If the Senator will say just any nongermane amendments on behalf of the Senator from Louisiana.

Mr. BYRD. Any nongermane amendments on behalf of the Senator from Louisiana with respect to any energy amendments that may be offered.

Mr. JOHNSTON. With respect to any subject, because I have a number of interests.

Mr. METZENBAUM. Mr. President, I would have to object to that because it would give the Senator from Louisiana an advantage 99 other Members of the Senate will not have, and that is he would be in the position to offer second-degree amendments on any subject he wanted; the rest of us would not be in that position. I have a lot of respect for my friend.

Mr. BYRD. I hope the Senator from Louisiana will not push that hard. I think the request I have before the Senate will certainly afford him ample opportunity to offer nongermane amendments to any amendment that he wished, and his nongermane amendments could deal with anything else.

Mr. JOHNSTON. Mr. President, ordinarily I would not concede on this matter, but since my friend from West Virginia asked, as long as it pertains to energy, I will concede.

Mr. BYRD. Yes. I thank the Senator. Again I say with no points of order being waived.

Mr. COCHRAN. Mr. President, reserving the right to object, I am asked to advise the distinguished manager of the bill that there is an objection on this side to getting that unanimous consent at this time. We are working with the Senator who has expressed concern and we hope to be able to report back.

In the meantime, I do have some indications from other Senators interested in being listed as having amendments. Senator DOLE has three amendments.

Mr. BYRD. All right. Let me add three amendments by Senator DOLE.

Mr. COCHRAN. Senator STEVENS, two amendments instead of the one previously entered.

Mr. BYRD. Two amendments by Senator STEVENS.

Mr. COCHRAN. Two amendments for Senator HELMS.

Mr. BYRD. Two amendments by Senator HELMS.

Mr. COCHRAN. An amendment by Senator KASSEBAUM.

Mr. BYRD. One amendment by Senator KASSEBAUM; two more amendments by Mr. RIEGLE; another amendment by Mr. LEAHY; two amendments by Mr. GLENN. Mr. FOWLER has one amendment. Messrs. BUMPERS and PRYOR have one amendment. And Mr. HOLLINGS will object.

I should state that I am not attempting to get the time on any of these amendments. I am not attempting to get a time limitation on the bill. So the Senators are fully protected. What I am trying to do is get consent on the number of amendments that may be called up, and with the proviso that second-degree germane amendments may be added thereto.

I mentioned three amendments. I hope that shortly we can get such an agreement merely for the purpose of limiting the number of amendments, because as Senators have just seen, the list grew geometrically during the time I was making the request. So I hope we can get such limitation shortly.

Mr. WELLSTONE also has an amendment. So Senators can easily see what problems there can be. I hope we will be able to get an agreement before long which, as I say, will not waive points of order. It will not seek time limitations on the amendment; will not seek a time limitation on the bill. So any Senator may filibuster to his heart's content, if there are amendments called up and agreed to which he does not like.

I would importune and beseech my dear friends to let us get an agreement at this time, which is a most reasonable one.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, the Senator from Louisiana limited his request to germane amendments. Did other Senators limit their request to germane amendments, or did the other Senators have the ability to put in amendments on anything?

Mr. BYRD. They did not limit them to germane. The only germane provision I included in my request is that amendments in the second degree to any of the amendments listed be germane to the amendments listed.

Mr. JOHNSTON. I see. So that all other amendments in the second degree would be germane?

Mr. BYRD. Second-degree amendments would be germane to the first-degree amendments.

Mr. JOHNSTON. So with respect to the Senator from Louisiana, he may introduce nongermane amendments with respect to energy.

Mr. BYRD. That is——

Mr. METZENBAUM. I would have to object to that. Mr. President, I would reserve the right to object.

If the Senator from Louisiana were to be allowed to offer nongermane amendments on the subject of energy, he would, frankly, be in a position to bring issues to this floor that could not be brought in any other manner, and we would find ourselves in a position of either having to filibuster such a proposal or kill the supplemental appropriations bill.

So I have to say that I think the Senator from Louisiana should stand in the same position as all other Members of this body. He is my good friend, but I do not think I am prepared to give him that advantage in certainly an area such as energy, where there are many issues of some controversy, which could be controversial.

If that is the way the unanimous-consent request is propounded, I would have to object.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I am most anxious to serve the interests of the Appropriations Committee in getting the supplemental appropriations bill through. I would hope that we could have this appropriations bill limited to matters that are appropriations matters and not to legislative matters. I would be happy not to object, if we did not get into the other arena.

But if we are going to have unlimited amendments on unlimited subjects, from abortion to defense appropriations to whatever, then I think Senators should be protected.

Mr. METZENBAUM. We all are protected, as I understand it. We have the right to offer a second-degree amendment. I think that the way the unanimous-consent request was made, the Senator from West Virginia is limiting the number of first-degree amendments and spelling them out. There is no limit with respect to the debate, no limit with respect to the right to have a second-degree amendment.

But if the Senator from Louisiana is given a special cutout that he has a right to offer amendments in connection with energy matters that none of the rest of us have, it provides him with some special privileges that he is——

Mr. JOHNSTON. Well, the unanimous consent is a limitation on the privileges of Senators, otherwise available under the rules. What I am saying is, I do not know what the subject matter of the first-degree amendments are.

Mr. METZENBAUM. Neither do I. I heard some names mentioned over there that raise some concerns.

Mr. JOHNSTON. In effect, what I am asking for is the ability to kill those first-degree amendments by second-degree amendments. Let us be frank.

Mr. METZENBAUM. Do we not all want that same thing?

Mr. JOHNSTON. I think the Senator from Ohio should seek the same kind—should not limit his rights, I should say.

Mr. METZENBAUM. As I understand it, my rights are not limited by the unanimous-consent request of the Senator from West Virginia. He is saying that any second-degree amendment that is germane can be offered to any amendment.

Mr. JOHNSTON. If it is germane.

Mr. METZENBAUM. If it is germane. I am not clear what the idea is of the Senator from Louisiana. But let us assume that there was an abortion amendment. Is the Senator saying that he has the right to put an ANWR amendment on the abortion amendment?

Mr. JOHNSTON. What I am saying is, under the present rules, if an amendment were offered to the appropriations bill, then the Senator from Ohio could put on any nongermane amendments.

Mr. METZENBAUM. No. The way he has it, I believe——

Mr. JOHNSTON. Under the rules.

Mr. METZENBAUM. Under the rules, that is correct.

Mr. JOHNSTON. The distinguished chairman of the Appropriations Committee would like to limit that by saying that only germane amendments could be offered to that. And I think, frankly, I am not anxious—I am not anxious—for this bill to be a Christmas tree for any matter that any Senator would like.

I think many of these matters ought to go through committees. I think they ought to be more fully considered. But if we are going to have a grab bag out here, then we ought to be able to stop those amendments, in effect, by second-degree amendments.

Mr. METZENBAUM. As I understand it, we have that right, provided our second-degree amendment is germane; am I correct?

Mr. BYRD. That is correct. There is no time limitation on the bill, which allows any Senator or Senators to filibuster the bill, if they so wish. So everybody is protected.

I am simply trying to get some kind of limitation on the amendments so that we then can begin to work through time limitations on the amendments.

Mr. METZENBAUM. I have no problem with that.

Mr. BYRD. I think it would be better if I attempted—now that we have the names of several Senators who want to offer amendments—to get the subject matter of the amendments, so that we can lay out for all Senators the subject matter of the amendments that are being listed, and then perhaps we can get an agreement. So for the moment, I would desist.

Mr. METZENBAUM. I ask the Senator from West Virginia that if he desists and comes back to this subject, the Senator from Ohio would like to be advised in advance so I can be on the floor. I will be here within 5 minutes.

Mr. BYRD. If we have another rollcall vote, I will attempt at that time.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

AMENDMENT NO. 1407

(Purpose: To limit the use of funds for carrying out any Department of Defense policy that prohibits certain abortions overseas)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. WIRTH, proposes an amendment numbered 1407.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of title II, insert the following:

SEC. 2 . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

Mr. LAUTENBERG. Mr. President, for clarification this amendment is designed to provide to servicewomen and military dependents the same rights that every other citizen of this country has.

We do not, when we recruit people, say to them: Remember that when you leave these shores, you also leave your rights behind. What we do say to them is that if you are stuck in another country someplace, and you need or want a privately funded abortion is in a military medical facility you don't have that right.

One day in 1988, an arbitrary decision was made, sent forward by Dr. William Mayer, Assistant Secretary for Health Affairs of the Department of Defense. The date was June 21.

Mr. President, I ask unanimous consent that a memorandum from Dr. Mayer for the secretaries of the military department be printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, June 1, 1988.

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities.

Until this time, there has been no formal Department of Defense policy on the issue of performing abortions, not funded by the government, in military medical treatment facilities in certain countries in which quality medical care may not be locally available. In a very small number of cases, military medical facilities in several locations around the world have performed abortions when paid for, not by appropriated funds, but by the patient.

Under the law, funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. The informal practice of performing so-called "pre-paid" abortions in very limited circumstances outside the United States does not violate the legal prohibition. However, it might suggest insensitivity to the spirit of the Congressional-enacted policy of withholding government involvement in the provision of abortions.

It therefore appears appropriate to establish formally a uniform Department of Defense policy in this regard. The policy is that the performance of pre-paid abortions in military treatment facilities is not authorized. To permit time for necessary instructions to be issued to facilities, this policy becomes effective October 1, 1988.

WILLIAM MAYER, M.D.

Mr. LAUTENBERG. Mr. President, suddenly a memorandum was sent out that limited the rights heretofore available for years, limited the rights of servicewomen and dependents of service families to get abortion services at military facilities. What was suggested was that, on a space available basis, you might be able to get the same rights.

Mr. President, what is suggested by the military as an alternative is, "Listen, why don't you wait and get a flight seat on availability and you can go back to the United States, or you can go to another country where abortion services are safe and clean."

Mr. President, that immediately poses a question. Does the Department of Defense policy put a servicewoman's health at risk when she is forced to wait for a flight back to the United States and her pregnancy advances further, possibly into the second and third trimester? The answer is "yes."

So, Mr. President, Department of Defense's policy puts the servicewoman's health in jeopardy by saying, "You wait until there is a seat available." Suppose a 15-year-old girl becomes pregnant, and she says, "I want my mother with me; I want my father with me. I want the comfort of my family around me when I go through this process." This is not something that people want to get. So then, does a dependent have to wait for three seats to become available and do they all ride on the same plane?

What happens if there are complications after an abortion? It can happen even in the best of circumstances. Do we say then, "No, no, too bad young woman. Your folks have to go home." Or if the person is a member of the service does that person have to take additional leave to take care of his or her daughter after a bad medical procedure? Certainly we would not ask that of a man who needs a particular treatment and ask him to take his personal leave and wait for an available flight to go back to the States, if the service is available on the base like abortion services have been before 1988.

This amendment doesn't require any health care workers to challenge their conscience. We say very clearly there is room for conscience objection to participating in any kind of a procedure the person deems objectionable. So we violate none of the rules that the military had already established before 1988, Mr. President, except the rules of fairness, the rules of decency. Can you imagine what would happen if we put on a recruiting poster or the agreement that an enlistee signs, saying, remember, like on a pack of cigarettes, military service may be injurious to your health? Do we say that not only enlistment in the service might be injurious to your health, but we should also say that it is injurious to your rights? What our Government says is serve your country, go to Saudi Arabia and go to the Philippines, but if something goes awry and you have a pregnancy that you do not want or you think is against the best interest of yourself or the fetus, but don't expect to retain your constitutional rights. There are many countries that only permit abortions under very strict terms. We have in the United States a law; it is Roe versus Wade. It is very clear what these privileges and rights are in our society under this Court decision. But it is also clear that you don't have these rights when you serve in the military.

Mr. President, there can be a lot of debate about whether or not Roe versus Wade ought to exist. There is going to be plenty of examination of that in the near future and there is a chance that the Supreme Court could overturn it. But how dare we say to someone who goes overseas to serve their country, often in very dangerous circumstances, "Remember, that if you go there, your rights are left at the national border."

So, Mr. President, this amendment is designed to make this wrong right and return our constitutional rights to 65,000 servicewomen and 400,000 dependents living abroad. Recently we had many discussions here about bringing the troops home. Well, I am one of those who favors that, but they are serving abroad at our behest. They are serving at our Government's direction. They are serving at the people's direction. While they are there, certainly they are entitled to all of the privileges and service and rights that any American citizen has.

Mr. President, I, with the distinguished Senator from the State of Colorado, TIM WIRTH, authored an article that appeared in the New York Times on November 13, 1991. It talks about abortion rights, and it is headlined, "Abortion Rights? Not in the Military," and I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Nov. 13, 1991]

ABORTION RIGHTS? NOT IN THE MILITARY

(By Frank R. Lautenberg and Tim Wirth)

WASHINGTON.—When a pregnant 21-year-old woman in the Philippines discovered that her child would be born with fatal birth defects, she and her husband reluctantly decided to end the pregnancy. Since abortion is illegal in the Philippines except to save the woman's life, she could have flown to Japan where its legal. On her husband's salary, the couple simply could not afford it. She was forced to carry the fetus to term with the agonizing knowledge it would die at birth.

The woman was not an impoverished Filipino but the wife of an American serviceman. Her husband was stationed at a naval base where the abortion could have been done safely and affordably, if not for a 1988 Defense Department directive barring abortions at U.S. military hospitals except to save a woman's life.

We've included an amendment to overturn this directive in the Senate version of the defense appropriations bill for 1992. Its fate will be decided in a House-Senate conference this week. The President has threatened to veto the entire defense bill in order to deny American servicewomen and military dependents access to safe abortions.

Last spring the nation shred a swell of pride and support for our forces in the Persian Gulf. Yet the President would tell our service members and their families that they deserve lower-quality health care than they could have at home.

In Saudi Arabia, where about 30,000 American women were stationed during Operation Desert Storm, abortions are illegal except to save the life of a woman. The laws are similar in Panama and the Philippines, where about 46,000 members of the military and their dependents are stationed.

Even where abortion is legal, American women may have to accept substandard medical care that endangers their life. Many developing countries cannot afford to test their blood supply for the AIDS virus. They lack antibiotics and trained personnel to provide high-quality health care. The results are deadly. In Latin America, complications from illegal abortions are thought to be the main cause of death in women between the ages of 15 and 39.

Lieut. Comdr. Jeffrey I. Jensen, former head of obstetrics and gynecology at the Subic Bay U.S. Naval hospital in the Philippines, has written a letter to Congress detailing his experiences over the last two years. He saw families forced to spend their life savings to travel to another country to have an abortion. He saw military doctors prohibited from providing counseling and care they believed to be in the best interest of their patients. He saw a young enlisted woman so distraught about her inability to end an unintended pregnancy that she committed suicide.

Overturning the Pentagon directive would allow servicewomen or military dependents to pay for their own abortions at overseas U.S. medical facilities. The Defense Department admits that the current ban on using its funds for abortions would not be violated.

The appropriations amendment upholds all regulations on health care that the military itself has established, including those prohibiting third-trimester abortions unless the life or health of the mother is in danger and requiring parental notification by minors before any major medical procedure, including abortion. It would not require any military health care worker to perform an abortion if it violated his or her ethical, moral or religious beliefs.

It is appalling that women who have volunteered to defend our nation should be expected to surrender a constitutional right because they are stationed in Manila instead of Manhattan.

Mr. LAUTENBERG. I ask unanimous consent to print in the RECORD an editorial in the Washington Post dated Saturday, May 18.

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

[From the Washington Post, May 18, 1991]

A PENALTY FOR SERVING ABROAD

In 1982 the Department of Defense prohibited the use of federal funds to pay for abortions. This policy is in conformity with the government's refusal to finance abortions for the poor through the Medicaid program, for government workers whose health insurance policies specifically exclude abortion and for those in desperate poverty in places overseas where the use of U.S. foreign assistance money is restricted. Americans living and working in this country, however, at least have access to safe abortions as long as they use their own funds to pay for them.

Not so for Americans serving their country in the armed forces abroad. Since 1988, members of the armed forces and their dependents have been barred from using military hospitals abroad for abortions even if they pay for the abortions privately. Many of them are stationed in countries where abortions are illegal. Others are in places where any kind of medical care in a local hospital is risky.

Congress did not require this wrongheaded regulation, and legislators can overturn it. An attempt will be made on Monday, when the House takes up the Defense Appropriations Bill. Last year, Senators Tim Wirth and John Glenn tried; they had 58 votes but not enough to stop a filibuster. In the House, the Les AuCoin-Ronald Machtley effort failed by only 16 votes. This year, the numbers look better. Servicewomen and military dependents abroad are not asking for special

treatment, only the right to receive the kind of treatment—at their own expense—that is available in this country.

Mr. LAUTENBERG. Mr. President, I take a moment to read from that editorial:

In 1982, the Department of Defense prohibited the use of Federal funds to pay for abortions. This policy is in conformity with the government's refusal.

And in 1982 they rearranged it so that no abortions can be paid for with Government funds. Those are the rules, but they did permit privately funded abortions. That means that persons pay for this themselves at a rate that is easily developed. There are HCFA and other agencies in the Government that can very clearly evaluate the rates for such service.

But the Washington Post editorial goes on to say that this access to safe abortions, as long as they use their own funds to pay for them, was available until 1988. Not so, the article says, for Americans serving their country in the Armed Forces abroad, and it describes again the condition.

In the last paragraph it says:

Congress did not require this wrongheaded regulation, and legislators can overturn it.

An attempt is going to be made and again I make reference to the fact that this was in May. Senators TIM WIRTH and JOHN GLENN tried and they had 58 votes.

Mr. President, 58 votes, not enough to get cloture, not enough to stop a filibuster, but 58 sounds like a pretty good majority.

Consider, Mr. President, at that time there were a couple Senators favorably disposed to righting this wrong who are not with us in this Chamber.

In the House, there was an amendment to correct this reprehensible policy introduced by Congressman AUCOIN, that was adopted in the defense authorization bill by a 220 to 208 majority. We had an amendment dropped in the Defense appropriations conference, which I authored. We lost by two votes because the President threatened to veto the bill. This threat does not indicate an unwillingness by the majority of the House Members as well as Senate Members to support this. The numbers are certainly there. Mr. President, the question is what is right. That is what we are talking about.

The will of the majority is constantly thwarted by Presidential threats of veto and by a group of opponents who are distinctly in the minority.

Mr. President, I ask unanimous consent to add Senator METZENBAUM and Senator PACKWOOD as cosponsors to this amendment.

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

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Thank you, Mr. President.

Mr. President, once again I rise in support of this important amendment which is one that merely goes to equities. There are those who can debate whether or not we ought to change the Constitution. The Supreme Court, I hope, will rule on that one of these days and not duck the issue, whether Roe versus Wade ought to be changed. But until it is changed, that is the law of the land. That is the law of the land. That is what the Court has said.

Now why should we be in a situation in which we, the Government, the Pentagon says that that law of the land is going to apply to most people in one way but it is going to apply to women in the military in another way? Should we condone treating women in the military as second-class citizens? Should we get some kind of ideology in the way of our fair treatment of women in the military? I think not. That is what this amendment is all about.

Now people can vote on this amendment and raise all kinds of issues related to their positions on abortion. That is fine. But I think that should be done another day. What this is about is just very narrowly involved with a simple question: Are women in the military going to be treated the same way as women elsewhere in our society? Are we going to do it?

This amendment does not provide for the public funding of abortions. It does not remotely address whether a woman should have the right to choose to have an abortion. It does not allow postviability abortions. It does not force military personnel to be involved in providing abortion-related services if that is contrary to their religious or moral beliefs. And finally it does not preclude parents from being involved in these important decisions that their children may face. It is simply about equality.

AMENDMENT NO. 1408 TO AMENDMENT NO. 1407

(Purpose: To provide servicewomen and military dependents access to reproductive health services in overseas military medical facilities)

Mr. WIRTH. Mr. President, I have an amendment to the amendment and I would ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1408 to amendment No. 1407.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of amendment 1407, add the following:

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is further amended by inserting the following new section:

SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

(b) PAYMENT FOR SERVICES.—In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full costs including indirect costs of providing the service.

(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

Mr. WIRTH. Mr. President, the situation in front of us is again a very simple one. Our women in uniform volunteered to serve their country, not to give up their constitutional rights.

Our amendment would allow those stationed overseas to be able to use military medical facilities for the full range of reproductive health services permitted under U.S. law. Any service that cannot be funded by appropriated Federal funds will be paid for by the individual. And that if what current law is.

I ask you all to think back to this past spring when across the Nation we witnessed a powerful display of emotion and support for the accomplishments of our voluntary forces in the Persian Gulf. Flags were waved, ribbons were hung, and we sang praises to the accomplishments of our troops, and justifiably so.

But in the next breath we have turned around and told our service members overseas that they deserve a lower quality of health care than what they could have at home. These people risked their lives to protect our country. They must not risk their lives because we will not provide them access to safe health care.

If we do not include this amendment in the bill, we will only be hurting more Americans, and I do not believe that that is our mission.

The supplemental appropriations bill that we are considering today has been brought to us so that our debts from Operation Desert Storm can be paid. Our amendment provides an opportunity for Congress to repay a debt to our service members to restore basic rights that one arbitrary DOD directive took away from them. Passage of the amendment would be a statement of support for simple justice, decency and equality for our women in the military.

The words of Lt. Comdr. Jeffrey Jensen at the U.S. Naval Hospital in Subic Bay, Philippines bring to our attention the repercussions and human cost involved with this directive. Because he worked in a country where abortion is illegal, he was exposed to several situations where forcing women off the base to obtain illegal abortions endangered women's lives and interfered with the readiness of our military.

Lieutenant Commander Jensen wrote:

I taste the bitter irony of my words when I tell a young woman, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise, I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal and common in the civilian community. * * *

Not only are our U.S. service women faced with the horror of obtaining illegal abortions that are unsafe and expensive, but many avoid informing their military physician about complications from the abortion for fear of having gone against military regulations—which, if their superior is not supportive of the right to choose, could jeopardize their careers.

Do not be fooled into believing that women are not forced into the streets. Dr. Jensen states that at his hospital alone, about eight patients each year are admitted with complications from illegal abortions. This is a very real problem for the individuals in the military.

Dr. Jensen went on to say:

It is appalling to me that the President of the United States, Commander in Chief of the military sees it fit to send active duty women overseas, and then neglect a major issue of health care concern. The overwhelming sexism in this policy is especially ugly. On any given night, one can observe scores of young men taking "liberty" in Olongapo City. The service gives implied consent to this by treatment of repeat offenders for sexually transmitted diseases, and ignoring the shameful problem of children fathered in these relationships and later abandoned. It is assumed "boys will be boys" or that such activity is necessary after a long deployment. . . . The active duty female probably acts irresponsibly far less often, but receives no support from the system when unintended (undesired) pregnancy results.

I ask my colleagues to join me in carefully looking at this situation—remove some of the emotion of the issue, and look at how we should rationally solve this injustice.

Let us look at the situation—our service members are frequently serving our country in locations where safe health care is not available at local facilities. That is precisely why the United States has established medical facilities on our bases—to meet the needs of DOD personnel and dependents in these locations. That is why we do not depend on local hospitals in the Philippines or in Panama or Saudi Arabia.

In many countries where U.S. military personnel are stationed, abortion is illegal or access to abortion is severely restricted. Their country's laws, not ours. In Saudi Arabia, where approximately 30,000 women were stationed during Operations Desert Storm and Shield, abortions are illegal except to save the life of the woman. The laws are similar in the Philippines and Panama, where about 46,000 military personnel and their dependents are stationed. This is also the only situation when a woman can obtain an abortion on the base.

So what choices are we leaving these women? Because they are stationed in a place that does not allow a woman the right to choose whether or not to continue a pregnancy to term as is the case in our country, we eliminate her option to choose to have proper health care.

Where does our responsibility to protect the life of the woman end? Unless her life is in danger by carrying the fetus to term, we force her to pursue unsafe medical practices that put her life in danger for choosing to exercise her constitutional rights. What kind of reasoning is that? It is the illogical reasoning used at the White House.

Even in countries where abortion services are legal, many subject American women to substandard health care where the blood supply is not tested for disease and trained personnel may not be available. Is this a price we are asking those who are serving the Nation to pay—simply because they are stationed overseas?

Left uncorrected, the DOD directive has a terrible impact on lives of those in our Armed Forces. It is as Senator LAUTENBERG so clearly pointed out, unfair and unjust. We ought to end this folly and remove the arbitrary directive.

Mr. President, this is not an issue that is new to Members of the U.S. Senate. It is not new to a majority of Members of the U.S. Senate. It is not new to more than 60 Members of the U.S. Senate who agree that this is fundamentally unfair. More than 60 Members agree that this is fundamentally unfair. Yet we are in a situation where we have 58 or 57 or 59 votes. It has been a movable feast of votes, figuring out how to oppose this so a filibuster can continue.

Well it is time we have this out again and see where people are. Let us sort this out, and sort it out as clearly as we can. Now is the time to do that. This is a perfect vehicle. We are paying a lot of bills for Operation Desert Storm. We are paying the bills for much of the Operation Desert Storm and Desert Shield, and as we pay those bills let us make sure we are doing our duty for the women of this country.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, if ever there was a wrong that needed to be righted, if there is such a word, this is it.

Women in the military had no problem with respect to this matter of abortions until the 1988 DOD directive. They were permitted to have safe and privately funded abortions in overseas military facilities. And what we are trying to do here is restore the pre-1988 Department of Defense policy.

That policy was wrong. It was unfair. The women who serve in the military should not be discriminated against. And this is a matter of sending them out into the back alleys of some countries that do not permit abortions and saying they cannot use the medical facilities in American hospitals, even if they pay for those services themselves.

It is the wrong kind of approach. It is an indignity to America's women who are serving in the military. It is a backward step and it deserves to be righted.

What happens as a consequence of the present policy is that oftentimes a woman is forced, if she wants a safe abortion, to pay up to two or three times her monthly salary in order to receive an abortion in another country. And as has already been pointed out there are some countries where you cannot even get the abortion unless you use the back alleys.

This is unfair. This is wrong. No matter what our policies may be, no matter what our positions may be with respect to the matter of Roe versus Wade, or no matter how we feel about existing other provisions that the Department of Defense has on this issue, we should not deny American servicewomen this basic and fundamental right of choice, paid for out of their own funds in safe and secure military hospital facilities.

It does not affect Roe versus Wade. It does not affect the Department of Defense policy on parental notification. It does not affect the Department of Defense policy on third trimester abortions. It does not affect the existing statutory ban on using Department of Defense funds for abortions. This only gives a woman a fair right to use the medical facilities that are available in the country in which she is serving so that she not be forced to come all the way back to this country, or travel to some far distant country. It gives her a chance to be with her family in that country where she is serving, assuming her family is there.

I believe this is the right amendment. I think it is time for us to act. I think we have delayed far too long.

Mr. President, I hope this body will see fit to give America's servicewomen the rights to which they are entitled.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I think it is unfortunate that at a time when we are trying to move the Senate to adjournment, dealing with one of the last pieces of legislation necessary to accomplish that task, the supplemental appropriations, that we have to inject an issue that is, yes, important; yes, we have debated it on a number of occasions; and, yes, there are appropriate places to debate this. I think it is unfortunate that the debate has to be raised once again on the floor, particularly at a time like this.

We have a number of people in this country who are desperately waiting for the benefits that will be provided through this supplemental appropriations. Yet I think as everyone in this Chamber knows, and certainly as the proponents of the amendment know, this is simply an effort to cause the administration to veto this so the Members then can come to the floor, and others, and say the President once again thwarted the attempt of Congress to provide benefits for farmers, benefits for veterans, benefits for women under the nutrition program, immunization for young people, and so forth.

As you read through the supplemental appropriations bill you find a number of important programs that are going to receive very needed appropriations. Veterans from Desert Storm and their spouses, and families who need special counseling or marriage counseling services as a result of the trauma incurred by those families during the Desert Storm operation are provided for with an appropriation in this supplemental appropriations.

If we are going to insist on legislating on an appropriations bill, and we are going to inject an issue that has been before the body and debated on numerous occasions just in this session alone, with a sure veto of the legislation, we are going to deny these families and their spouses the opportunity to receive this important counseling.

There is humanitarian relief for a number of people who are unintended victims of the conflict in the Middle East. Those people will be denied that assistance. More important, or just as important, there is disaster relief for people whose lives, homes, property was devastated by a number of disasters in this country. There are farmers who have suffered drought. I have thousands of farmers in Indiana who will receive at best half of the net income that they received last year because of a severe drought that hit almost every one of our counties in Indiana during this past summer. There is more than $1.5 million available to provide that drought relief. That is being put in jeopardy by the proponents of this amendment. Disaster relief for flooding, coastal flooding, losses associated with crop loss in both 1990 and 1991 will suffer here.

Small things—maybe it seems small to some Members here but certainly important to others—relief for the State of Maine for potato disease. That relief is provided in this bill. Flood control along the rivers of Mississippi—Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, and other coastal emergencies is provided in this bill and, maybe most important, a special supplemental food program and nutrition program for women, infants, and children to the tune of $100 million. Special immunization, childhood immunization, funding for $90 million; Head Start funding for $1.2 billion—all of that is provided in this bill.

It is a bill that everyone in this body knows has to conform to the agreements made by the Appropriations Committee in the Senate and the House, by the people at OMB and the White House. And if we load it up with this or any of a number of other amendments that probably will be offered here we are going to find this once again the subject of a Presidential veto.

Then those who enjoy beating up on the President will say the President, in another cruel, heartless way, has vetoed money that goes to women and children and infants and so forth.

This particular amendment is particularly unnecessary because it is a solution in search of a problem. We hear a lot of talk about this being unfair to women; that women find themselves trapped overseas with no alternative but the back alley, and nothing could be further from the truth.

To confirm that, I contacted the Department of Defense to ask them what the exact situation was, and I want to quote back from the letter that they used to reply to my written inquiry about whether or not we face the problem. The proponents of the amendment like to paint the picture that we have hundreds, if not thousands of women who are trapped in some overseas location who desire an abortion and have no option, because the host country prohibits abortions except to save the life of the mother, or because the health conditions of the medical facilities and medical providers' lack of skills in that country simply do not allow for a clean, a sanitary, a safe abortion procedure and, therefore, these women, in desperation, are driven to the back alley.

Nothing could be further from the truth. The Department of Defense certified to me in writing that they have no record of any case, of any woman who has been denied any option for transportation back to her home State for the purposes of an abortion. The Department of Defense makes the first available military plane available to any women to take her back to her State of origin for the performance of an abortion for any reason without any questions asked if that woman makes the request for an abortion.

It simply is not necessary that this amendment be adopted to provide the kind of rights or belief that the proponents of the amendment say are being denied.

A second objection to the amendment is the fact that the amendment is totally unlimited in terms of the kinds of reproductive health services and the kinds of abortions that may be available to a woman in a military hospital if the amendment were adopted. Unlike restrictions, reasonable restrictions placed on the types of abortions performed in various States in our Nation, this amendment would allow an abortion for any reason on demand for any woman.

(Mr. ROBB assumed the chair.)

Mr. COATS. Mr. President, I am sorry that the proponent of the second-degree amendment is not on the floor. I did have some questions I would like to ask, but I do see the offerer of the first-degree amendment. I wonder without yielding the floor, Mr. President, if I could ask the Senator from New Jersey some questions as to the scope and extent of his amendment.

Is it true, I ask the Senator, Mr. President, that an abortion may be allowed under this amendment for any reason within a military hospital? In other words, would a woman be able in the 9th month of pregnancy to receive an abortion at a military hospital under the terms of this amendment?

Mr. LAUTENBERG. Will the Senator repeat the question, please?

Mr. COATS. I would like to ask the sponsor of the amendment that we are dealing with here some questions relative to the scope of the amendment that is provided. It is my reading of the amendment that this would allow a woman in the military an abortion, for any reason, in a military hospital; in other words, an abortion in the 9th month would be permissible, I assume, under this amendment.

Mr. LAUTENBERG. I assume that the Senator was on the floor during much of this discussion because we have been at it for some time now, and it is clear and the RECORD will indicate that this amendment allows the Department of Defense to operate under the existing rules and the law as it was established under Roe versus Wade. I was so specific in my comments. I am sorry the Senator did not hear it.

In the first trimester under Roe versus Wade, the State has no interest. In the second trimester, limited interest. In the third trimester, the State essentially has a compelling interest. This amendment continues to uphold this framework.

So we would not do anything that is not allowed to any other citizen in this country. If the Senator is asking me, should we restrict a service family member's rights and let the law apply

only to those within the country's borders, I would say definitely no. I think that when we enlist someone in the service to defend our country, send them abroad, expose them to danger, I think we ought to say, hey, listen, at least you have the same constitutional protections that every person has.

Mr. COATS. I would like to reclaim my time, Mr. President. That did not exactly answer my question because it is clear that the laws of any particular State which may govern performing of abortions in the first trimester or second trimester or prohibitions of abortions in the third trimester are limited for whatever reason because laws passed by that State would not be applicable to a military facility overseas.

So my question is: It appears to me, unless the sponsors of the amendment can indicate otherwise, that a woman in the military stationed at a military facility overseas would not be covered by the laws of the particular State which she resided from relative to the securing of an abortion; in other words, there would be no limitations. And because this covers not only abortions but any reproductive health service, I would assume under this amendment a woman, say, stationed in the Philippines or Panama, Europe or wherever, could walk into a military hospital and on demand have an abortion even in the 9th month of her pregnancy or if she determine through an ultrasound process that the child was a boy and she wanted a girl or vice versa, she could ask for an abortion for the purposes of sex selection. Or if they determined through amniocentesis or some other procedure that there might be a slight handicap present in the child, regardless of what stage she was in, whether the first, second or third trimester, that such a woman could demand an abortion, and if that is the case, then obviously the rights inherently available to that woman in the military were not, as has been suggested, less than the rights of a woman living in the United States and actually greater than most rights available to women living in either New Jersey or Indiana, Colorado, or any other State in the Nation.

It seems to me this amendment would expand the rights available to women, not address an inequity. The discrimination appears to flow to the women, under this amendment, living in New Jersey or Colorado or Indiana.

I will be happy to yield to the Senator for an answer.

Mr. LAUTENBERG. Mr. President, I do not know whether the Senator is aware of the rules that apply and have applied even before 1988 dealing with abortion that say that no abortion shall be permitted in the third trimester, unless there is a threat to the mother's life or health. I think that is pretty clear.

Once again, I respond to the Senator's inquiry about restoration of rights. I am happy to hear that the Senator believes in the restoration of rights of those in the service because services in this country are generally available, perhaps with some States taking different views but for the most part, abortions are available without challenge in the first trimester, with limited restrictions in the second, and are typically forbidden unless the life or health of the mother is in danger.

Mr. COATS. Mr. President, I again make the point that laws that may be applicable or restrictions that may have been placed on performance of abortion in various States would not be applicable to a military facility overseas and, therefore, a woman would be able to demand an abortion for any reason at any time, including the ninth month of pregnancy if she so desired. It would not be restricted by any rights under the particular State law.

In reference to the court decision in Roe versus Wade, I think the Roe versus Wade decision and subsequent decisions have allowed for abortions in the third trimester to protect the life of the mother, or if her health is at stake, and that has been determined under a number of court decisions purely liberally to include anxiety, distress, or other health reasons.

So it would seem to me that this amendment is more extreme than virtually any, if not all, States of the Union in terms of how they have attempted to interpret the application of Roe versus Wade.

I think Members need to understand that my objection to this amendment is not premised on the debate over pro-life or pro-choice.

It is clear that this amendment seeks to expand a right not available to most women, and that it attempts to provide a solution to a problem which does not exist.

Now, I would be happy to make, for the RECORD, Mr. President, a copy of a letter that I have received back from the Assistant Secretary of Defense in answer to my questions as to whether or not the Department has had any complaint filed concerning the current policy in effect. Their answer to that is "No".

I asked them if there were any legal challenges instituted concerning the policy, and their answer to that was "No".

I asked them if any members or their dependents have ever been denied access to an abortion as a result of their policy. Their answer was "No".

Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion? Their answer was "No".

Have any members or their dependents been denied access to the opportunity to leave a host country to return to the United States? Their answer was "No".

If the proponents of the amendment have evidence to the contrary, obviously we ought to make that part of the RECORD.

We have heard the letter of Dr. Jensen quoted at length in previous discussions of this amendment and again today. Perhaps it would be beneficial to follow up on that and find out just what the circumstances were in this particular case.

But it appears we are making the policy on the basis of one letter which applies to one woman without fully knowing what the circumstances are, because the Department of Defense has a policy which allows any woman to return to her home State for an abortion, for whatever reason she so desires.

It really does not seem to me to be necessary to propound this amendment, particularly at this time, on a bill which we know will not survive with this amendment attached to it.

So again I question why the amendment is being offered at this time. I question the necessity for the amendment. I believe we are facing a situation that simply is not necessary for us to go through once again.

Mr. WIRTH. Will the Senator yield?

Mr. GLENN addressed the Chair.

Mr. WIRTH. Will the Senator yield?

Mr. COATS. I would be happy to yield to the Senator from Colorado for a question.

Mr. WIRTH. The Senator asked four questions, and I would be very happy to very briefly respond. The questions asked which conditions were placed under this. Exactly the same under Roe, which is the constitutional law of the land. Abortions, as I pointed out, are not to be allowed in postviability time. That is exactly the same here. Roe also says it should be done with consultation of a physician to determine viability. Third, Roe also says, as the Senator correctly points out, States can regulate conditions postviability at any time. And DOD can do that and has in the past.

We are not talking about those conditions. We are talking about the fundamental rights under Roe, which is the ability of an individual to have an abortion if she wishes previability. That is the current law of the land as it applies to most people and not women in the military.

I thank the distinguished Senator for yielding.

Mr. GLENN addressed the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana retains the floor.

Mr. COATS. Mr. President, it occurs to me that this clearly is a case of legislating on an appropriations bill, although that is a decision not for me to make but for the Parliamentarian. But pursuant to rule XVI, I would raise a point of order, Mr. President, that this is legislation on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the—

The PRESIDING OFFICER. Does the Senator from Indiana raise the point of order at this time?

Mr. COATS. I raise the point of order at this time.

The PRESIDING OFFICER. Is it directed to the first- or the second-degree amendment?

Mr. COATS. At the underlying first-degree amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Mr. GLENN. We do not have a ruling from the Chair yet.

The PRESIDING OFFICER. After consultation with the Parliamentarian, the Chair rules that the point of order is well taken. It attempts to legislate on an appropriations bill.

Mr. WIRTH. Mr. President, I would appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] the Senator from Iowa [Mr. HARKIN], and the Senate from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—40

Bond	Ford	McConnell
Boren	Garn	Murkowski
Burns	Gramm	Nickles
Byrd	Grassley	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Craig	Heflin	Smith
D'Amato	Helms	Stevens
Danforth	Johnston	Symms
DeConcini	Kasten	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Exon	McCain	

NAYS—57

Adams	Glenn	Nunn
Akaka	Gore	Packwood
Baucus	Gorton	Pell
Bentsen	Graham	Pryor
Biden	Hollings	Riegle
Bingaman	Inouye	Robb
Bradley	Jeffords	Rockefeller
Brown	Kassebaum	Rudman
Bryan	Kennedy	Sanford
Bumpers	Kerry	Sarbanes
Burdick	Kohl	Sasser
Chafee	Lautenberg	Seymour
Cohen	Leahy	Shelby
Conrad	Levin	Simon
Cranston	Lieberman	Simpson
Daschle	Metzenbaum	Specter
Dixon	Mikulski	Wellstone
Dodd	Mitchell	Wirth
Fowler	Moynihan	Wofford

NOT VOTING—3

Breaux	Harkin	Kerrey

The PRESIDING OFFICER. So the decision of the Chair does not stand as the judgment of the Senate.

The pending amendment remains the Wirth second-degree amendment to the Lautenberg first-degree amendment.

Who seeks recognition?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Parliamentary inquiry. When would it be timely to offer an amendment?

The PRESIDING OFFICER. On disposition of the pending amendment.

Mr. SIMPSON. Mr. President, I would wish to briefly explain my vote on the procedural point of order regarding the Wirth amendment which would allow members of the armed services and their dependents the right to choose to have an abortion, just as stateside citizens have at overseas military health facilities. On August 2, 1991, the same issue was before the Senate, but in a different procedural context. On that date, I stated that I supported the amendment on the merits. However, the Wirth amendment, in the final day prior to the August Recess, threatened passage of a bill critical to the security of our Nation—the Defense Department authorization bill. At that time that amendment was the last major obstacle to the expeditious passage of the $290.8 billion bill providing for our Nation's security. On that bill, Members of the Republican leadership followed the course set out by the respected ranking member of the Armed Services Committee, and voted against cloture. Seven Democrats joined us in that vote. The House version of that bill had already passed on May 22. Therefore, work on reconciling the two, huge bills was then able to begin immediately. It was a very long and difficult process, and the final version of that bill passed this Chamber only last night.

As of the time, I speak to you now, there are approximately 75 amendments which Members intend to offer to this so-called dire emergency spending bill. This bill provides for $9.5 billion in spending authority in fiscal year 1992. The first form of this bill passed the Senate on March 20, 1991. It has been caught up in all sorts of intramural fun and games—politics—but it clearly has not lived up to its name. In fact, it is actually the last train leaving the station. We are voting on all sorts of things that are not relevant to this bill. Although the Chair ruled that the Wirth amendment was legislation on an appropriations bill—that objection certainly has little meaning to us when the floodgates have already opened as they have today. Since I favor the Wirth amendment on the merits, and have always supported a woman's right to choose, and because of the different circumstances surrounding this bill than those facing us last August—I was pleased to vote not to sustain the Chair's ruling, along with 56 of my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the Wirth second-degree amendment to the Lautenberg first-degree amendment.

The amendment (No. 1408) was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I rise today in support of an amendment offered by my esteemed colleague, Senator LAUTENBERG, permitting military personnel and their dependents to obtain abortions at military medical facilities overseas. The need to change DOD's inequitable policy preventing women from obtaining abortions in overseas military medical facilities is as important as ever and I am here to urge my colleagues to support Senator LAUTENBERG's amendment.

WHY THIS CHANGE IS NECESSARY

Let me tell you a dramatic story about what happened to a military couple stationed over in the Philippines, where abortion is illegal, I believe you will see why this amendment is so desperately needed.

The case has been poignantly related to Congress by a military doctor frustrated by his inability to help his patients. In that case, the couple, a 23-year-old lance corporal and his 21-year-old wife, were expecting their first child. At about 20 weeks, the woman underwent an ultrasound and multiple fetal anomalies were discovered. Additional testing indicated that the anonalies were so severe that the child could not live beyond birth.

The couple was counseled concerning the child's chances for survival and options related to continuing the pregnancy or electively terminating it. Faced with the deteriorating condition of the fetus, the couple chose to terminate the pregnancy.

It is at this point that the harshness and cruelty of DOD's current policy become most visible. This couple, devastated by the news that their child could not possibly live, made the decision to terminate the pregnancy, a decision fraught with agony. They were then faced with the fact that the abortion procedure could not be conducted in a military medical facility.

The couple then sought to obtain an abortion in Japan. However, at the time, the cost of an abortion in Japan was about $2,500 and the couple could not afford the procedure. A lance corporal does not make a large salary and the young couple had no savings. This family felt they had no other choice but to continue the pregnancy. For 10 weeks, the woman carried this fetus until it died. A long and painful labor was induced, a labor that was com-

plicated by the fetus' anomalies. Mr. President, there simply was no need to put this couple through this kind of emotional trauma. The amendment Senator WIRTH and I propose would end this needless agony.

EFFECT ON OTHER CURRENT POLICIES

Despite suggestions to the contrary, Mr. President, this amendment merely overturns the current Department of Defense policy preventing servicewomen and dependents from obtaining abortions in military medical facilities. The amendment does not affect the ban on using DOD funds to pay for abortions because it requires that all costs associated with the abortion procedure be paid by the individual. Even DOD's own policy letter admits that the ban on using DOD funds is not violated when military medical facilities are used to perform abortions paid for by the individual. Nor does this amendment impact DOD regulations which provide that military medical personnel are not required to participate in abortion procedures if they object because of their ethical, moral, or religious beliefs.

WHAT THE AMENDMENT DOES

Adoption of this amendment eliminates the inequity that the current policy has created. It removes the obstacles that have been thrown in the way simply because these women are in the service or are dependents of those in the service. It simply gives these military women access to the same medical procedures available to women living in the United States.

Moreover, Mr. President, if people are not persuaded by the fundamental fairness of this amendment, this measure also eliminates the policy which can force a woman to seek an illegal abortion if she is stationed in a country outlawing abortions, and the policy which can force a woman to rely on a substandard health care system in a country that does not routinely apply the health care standards to which we in the States are accustomed.

What could possibly be the rationale for transforming an otherwise safe and legal procedure into an illegal act or a needlessly life-threatening situation? Why would DOD seek to make its people commit criminal acts or risk their lives for the sake of subverting a constitutionally protected right? Mr. President, I submit, we, as legislators, cannot stand by idly while the rights of these women are eroded.

THE DEBATE'S LEGAL FRAMEWORK

Before we embark on the kind of debate that has become customary whenever the Senate addresses issues related to abortion, let me lay out the contours of the real debate so that we can avoid being diverted by arguments that really have no place in this debate.

Let me begin at the most basic and fundamental level with the constitutional perspective. U.S. citizens have a constitutionally protected right to obtain an abortion.

People can disagree with that policy, but they cannot dispute, nor, more importantly, can they ignore, the fact that our Constitution has been interpreted to protect this fundamental right. Therefore, the question of whether abortion should or should not be a protected right is not an issue here today and arguments against this amendment based on the belief that abortion should not be legal miss the mark. Abortion is legal and thus, the debate must begin from that starting point.

The real question is whether we will continue to allow the Department of Defense to compromise the undisputed constitutionally protected rights of our servicewomen and dependents by denying them access to safe, legal abortions in military medical facilities overseas. Mr. President, I maintain that we cannot tolerate the arbitrary curtailment of constitutional rights.

And, Mr. President, let me add that when I speak of the arbitrary curtailment of rights I am not raising arcane concepts of constitutional law, I am talking about a policy which sends women to abortion clinics in underdeveloped countries exposing them to questionable health care practices. I ask you, Mr. President, what does that say about the respect the Department of Defense shows for the rights of individuals who would risk their lives to protect our basic freedoms.

When Mr. WIRTH and I introduced a similar amendment to the last 2 year's Defense authorization bills, opponents of the amendment raised a whole host of issues which really have no bearing on the merits of this amendment. Mr. President, I intend to put those arguments to rest at the very outset.

OPPOSITION'S ARGUMENTS LAST YEAR

Last year, opponents of this measure argued that the measure was unnecessary because the number of abortions performed in military medical facilities overseas would not be very high. They argued that it was unnecessary because DOD officials had not sought a legislative change to their policy. They argued that access to abortions in military medical facilities overseas was unnecessary because servicewomen and dependents could always fly back to the United States to obtain an abortion.

They also argued that the 1984 statutory ban on funding abortions would be undermined by this amendment. They argued that the funding ban was not just a funding ban, but that it was a ban on Government involvement in abortion services. They argued that the amendment would allow abortions to be performed in the third trimester of pregnancy, or that this amendment would be used as a vehicle to select the gender of a child.

OPPOSITION IS NOT PERSUASIVE

I think you will see, Mr. President, that none of these arguments is persuasive. In fact, I believe that most of these arguments are designed to confuse and inflame the issue.

As I've already mentioned, Mr. President, opponents last year sought to defeat this measure as unnecessary because, in their view, there isn't enough of a need for it. That is, it is unnecessary because too few women would need to obtain abortions in military medical facilities. In a related argument, opponents argued that the amendment was unnecessary because neither the Secretary of Defense nor the Assistant Secretary of Defense for health sought this legislation.

Mr. President, I find it almost incomprehensible that Members of this body would condition protection of a constitutional freedom on how frequently the need for protection arises. I ask those Senators what the magic number should be? Mr. President, even if it turns out that only one woman seeks to obtain an abortion, I believe all women should be guaranteed access to safe, legal abortions while they are stationed overseas. Moreover, the fact that senior officials in the Defense Department have not sought this legislation has no bearing on the issue. The right to an abortion is a constitutionally protected right. I do not think we need to look to these officials as the arbiters of our constitutional freedoms.

Mr. President, opponents of this measure have also argued that this amendment violates the statutory ban on using DOD funds to perform abortions. This argument is simply wrong, Mr. President. Under this amendment, the individual seeking the abortion would be responsible for its cost, including all indirect costs associated with the procedure. No taxpayer dollars would be used. And as I mentioned earlier, even DOD acknowledges that the ban is not violated when the individual pays for the abortion.

In a strange twist, these same opponents have argued that the current DOD policy need not be changed because women seeking abortions in countries where abortions are illegal or in countries where the health care system could imperil their lives are free to take leave, and fly back to the United States or to another country to obtain an abortion. I find it incredible that these same opponents who view abortions fully paid by the patient as involving the expenditures of DOD funds would suggest that women fly back on military aircraft to obtain abortions. If anything were to violate the ban on using funds, flying around on military aircraft would seem more likely to do it.

Moreover, needlessly making women fly around the world to obtain an abortion because they happen to be in military service and stationed overseas

seems to be a thinly veiled attempt to make a woman's exercise of a constitutional freedom as difficult as possible.

Lastly, Mr. President, this amendment does not affect the scope of sanctioned abortions. So I ask my colleagues not to be taken in by arguments that this amendment would allow abortions in the ninth month of pregnancy or to select the gender of a child. This amendment merely provides access to abortions for military personnel stationed overseas. It does not allow or prohibit anything more or less than is allowed or prohibited in the United States.

Mr. President, as I have now said a number of times, I support this amendment because it demonstrates the fact that Congress respects the constitutional rights of our servicewoman and military dependents. I urge my colleagues to support this amendment to restore sanity and compassion and reject the absurd interpretation of the funding ban and its potentially deadly consequences.

Mr. CHAFEE. Mr. President, I would like to express my support for Senator LAUTENBERG's amendment. This amendment would simply afford women serving overseas in the military the same reproductive rights that they would have had they chosen to remain in the United States.

In the past years, we have seen an increasing participation by American women in the U.S. military. We welcome the service of these women, and admire their patriotism and courage. If anything, we should be going out of our way to accommodate these women, who often leave behind children to serve our country. Instead, we have a policy which discriminates against them and, in many cases, places them at medical risk.

There are many in this body who are opposed to abortion rights. Yet the fact remains, that, at least for now, in the United States, a woman has a right to terminate a pregnancy if she so chooses. Under current law, women in the military and female dependents of those serving in the military may not obtain abortions at military hospitals. An unfortunate 1988 directive prohibits military hospitals from providing abortions. This places these women in the untenable position of having to seek abortions at a health facility in that foreign country, if it is even legal, or to try to come back to the United States in time to have the procedure performed safely.

This is terribly unfair. First, in many countries, abortion may not even be legal, thus the woman may be forced to seek an illegal abortion. Second, many countries do not have the same standards of health care as we have in the United States, and the woman would be forced to use such substandard care. Thus, in effect, women stationed overseas, be they serving in the military themselves or dependents of military families are prevented from obtaining a medical service that is guaranteed by the U.S. Constitution.

This amendment would allow military hospitals to perform abortions and the woman would be required to pay for the service. We are not asking the U.S. Government to pay for the service, just to provide women with the same access to health care as she has in the United States. This is fair, and I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the underlying amendment?

The question is on the Lautenberg amendment, as amended.

The amendment (No. 1407), as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 1409

(Purpose: To provide an incentive for increased consumer spending and to provide a short-term economic stimulus by waiving the penalty under the Internal Revenue Code of 1986 on certain withdrawals from pension plans which are used to purchase consumer goods and other items and by extending for 1 year the research and experimentation tax credit, the low-income housing tax credit, the mortgage revenue bond tax provisions, and the targeted jobs tax credit.)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 1409.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for he taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

Mr. SPECTER. Mr. President, in the interest of expediting the proceedings on this important legislation, I have had a discussion with the distinguished chairman of the Appropriations Committee hoping that this might set an example. Senator DOMENICI and I are prepared to agree if its agreeable with others to 40 minute time limits, equally divided.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. SPECTER. I yield.

Mr. BYRD. Mr. President, the distinguished Senator has offered to limit debate on his amendment to 40 minutes to be equally divided. I wonder if there is any objection to that.

Mr. BENTSEN. Mr. President, reserving the right to object, I would say to the distinguished chairman of the Appropriations Committee, as chairman of the Finance Committee I am deeply concerned about the amendment. It obviously violates the constitutional ruling as to the origination of revenue measures. I want to be sure that the Senator from Texas had some time.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the amendment be limited to not to exceed 40 minutes with the Senator from Pennsylvania in charge of 20 minutes and the Senator from Texas in charge of 20 minutes.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, could we be advised as to what the amendment is?

Mr. SPECTER. Mr. President, I would be pleased to respond to my distinguished colleague from Ohio. The amendment seeks to alter the rules on withdrawals of funds from IRA's so that people would not have to wait until they are 59½ and could withdraw without penalty up to $10,000 a year to stimulate the economy.

Mr. METZENBAUM. I have no objection.

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

Mr. SPECTER. Mr. President, the amendment which Senator DOMENICI and I are offering, is directed to provide a stimulus to the economy which is so sorely in need of increased consumer purchasing power. We face a very serious economic situation in the United States today and we are limited as to what we can do within the current budget agreement. It is not possible for additional expenditures to be made by the Government nor is it possible to reduce taxes in order to provide additional consumer purchasing power.

But after some thought and analysis, Senator DOMENICI and I propose that the very considerable existing funds in IRA's and 401(k) plans could be made available to stimulate consumer purchasing power. There are in these funds in excess of $800 billion. They cannot be withdrawn by those who own them, IRA's, for example, until someone is 59½ without paying a considerable penalty.

Our thought is, and this amendment proposes, that there would be permission to withdrawn up to $10,000 by middle-income or slightly higher taxpayers, limited to those who have incomes of $75,000 a year individually or for married taxpayers, $100,000 a year, without penalty and without tax in the year of withdrawal, providing that $10,000 is spent on consumer goods. The tax would then be paid in equal installments in each of the next succeeding 4 years.

We have given considerable thought to this amendment. We had tried to put it on the unemployment compensation bill which might have been a more appropriate vehicle, but could not do so. We recognize that technically it is legislation on an appropriations bill, but that is a rule which is honored in the breach when necessity arises, as it just did on the preceding amendment.

We think this is a very, very important measure which ought to be enacted this year. We have discussed this matter with the Secretary of the Treasury, Nicholas Brady, with the Chairman of the Federal Reserve, Alan Greenspan, with the Chairman of the President's Economic Advisers, Michael Boskin, and all have been very interested and have responded that it is a matter certainly worth pursuing. There has not been a final commitment made by the administration at this time.

We also have discussed with Chief of Staff, Governor Sununu, who has advised that this is the kind of a promise that in broad outline, again without a final commitment, that the President would like see moved ahead, although again there is no final commitment.

We are facing very, very serious economic problems. We are a nation with great wealth, great resources but we are in a state of great difficulty. We have sought for the past 2½ weeks to get some sophisticated projections as to how much would be spent, but candidly nobody knows. Even with the penalties, Mr. President, we are advised that there are some $10 billion a year withdrawn from IRA's, and it is the thought of Senator DOMENICI and myself that there would be very, very considerable expenditures. There is a relatively limited downside in terms of restricting savings because it is only $10,000 per person.

We think this would be a very significant help. It is patterned in effect after some of the legislation introduced by the distinguished chairman of the Finance Committee as to future IRA's where there are provisions for withdrawals for important items like first-time homebuyers, college education, and medical expenses. We think it is a very promising idea and urge its adoption.

How much time remains Mr. President?

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator has 15 minutes and 20 seconds.

Mr. SPECTER. I yield 5 minutes to my distinguished colleague from New Mexico.

Mr. DOMENICI. Mr. President, I note that the distinguished chairman of the Finance Committee is waiting and I am sure he knows we do not intend to take a long time this evening. We already agreed to a rather short time for debate.

Let me say that I am sure we will hear the argument that the country needs more savings and not less, and no one will get an argument from the Senator from New Mexico. He will not argue with anyone that says that. In fact, I think we should substantially change the Tax Code so that we have far more savings and far more investment and less consumption in this country. But I believe we are in a very serious economic downturn.

As a matter of fact, I believe that this is the most unusual of all downturns, because while the manufacturing industry is somewhat down, and unemployment is somewhat high, it is not really very high. We had a recession 2½ points higher than this one, in fact, the last time out. We were up around 9 or over 9 percent unemployment. But this one appears to many to be more severe, and I think that is the case because real estate is in an almost freefall status in the American economy. And it is a huge part of the GNP and a huge part of our assets and wealth.

Many people are worried about spending money because they think their property, their real property is going down in value and their homes are in jeopardy. I think that unless we build something very quickly on the consumer side to start confidence, I believe there is a chance that it will continue in that kind of downturn with real estate in somewhat of a freefall with the exception of housing starts, which are stabilizing a bit. Nothing to write home about yet, but stabilizing.

So it seemed to me that for a very short period of time, 6 months, you ought to be able to draw from your IRA account up to $10,000 spend, it on yourself, on your child, or on your grandchild for any of the following: a home, an automobile, home improvements, or the big appliances that go into a home. That is what we have enumerated. If people will do that, they will start the kind of growth that the economy needs.

Almost everyone says get the housing market started, stabilize that automobile market somewhat, and we will be coming out of this economic downturn. That is precisely what this will do. Now the argument that we should not take out of savings because over the long term we need savings, leads me to suggest the following. If this were to reverse the downward trend even 6 months earlier than it would otherwise occur, you will save more money in both savings accounts and in assets that will not disappear through bankruptcy and insolvency, than what you will take out of the IRA accounts to spend under this proposal.

I would not have been part of this unless I was absolutely confident that in the short term it will help, in the long term it will cause no damage, and we are not permanently changing anything. But if we could entice people to spend that money now, it would truly do some positive things.

Now you might ask: why would they withdraw it when it is only a penalty that is forgone? Well, we are also doing another thing. We are saying that the $10,000 that you take out, upon which you owe taxes, you do not have to pay right now. In fact you pay it over 4 years in 4 equal installments, the first one being at the end of the taxable year during which you withdraw the funds. It seems to me that is a big advantage along with no penalty, and we might get very, very many billions of dollars taken out and spent that would not otherwise have been taken out of the IRA accounts and spent.

Nonetheless, the concept of the incentive for IRA's should remain, and we ought to look in the long term at something better than we have been able to do. But for now this seems to be a petty good way to accomplish what most economic experts are saying we ought to try to do.

I thank the Senator for yielding me time, and at this time I yield the floor.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, this is a replay of the amendment of the junior Senator from New York that we dealt with earlier today. Let me make it very clear this amendment is a revenue measure. The Constitution says that revenue measures must originate in the House, the House feels very jealous about those prerogatives. That means all the work on the underlying bill, the dire emergency appropriations bill, could be down the tubes if this amendment is adopted.

Now let me talk about the substance of it for just a moment. This amendment does not encourage savings. This amendment will encourage the short-term spending of the retirement savings of the people of this country. It will allow them to use that money to buy TV's, VCR's, and boom boxes.

That is what would happen, if it ever became law. But it will not become law because adoption of the amendment would violate the Constitution of the United States and the House will object. Even if the House did not object, the courts would hold this not to comply with the Constitution because it is a revenue measure and revenue measures must originate in the House. As a result, this amendment is a wasted effort. In the end it is nothing more than showboating.

I strongly urge the Members of this body to resist this amendment. As I said, the Senate just defeated another unconstitutional amendment offered by the junior Senator from New York [Mr. D'AMATO]. But this amendment also reminds me of another D'Amato amendment that was passed here late one night where we tried to put a cap on credit card interest rates. I went along with that. It sounded good. By the next day I knew better. I began to understand what could happen to consumer spending and that many people might lose their credit cards. This amendment has the same kind of appeal as the earlier D'Amato amendment. It sounds good, but the long-run consequences could be very negative.

Let us take a closer look at this amendment and see what would happen if it ever became law. I have talked to some of the financial institutions in the country, and they are concerned about a possible run on the banks. They are concerned about the IRA accounts that they are administering and the amount of money that would pour out of the banks. Financial institutions are having enough trouble now with liquidity. If that kind of situation developed, if this amendment were really to work, to really stimulate the economy, then it would take a massive outflow in the IRA and other retirement accounts into consumption, consumption of durable goods.

But this is no time to deplete the retirement savings of the people of this country on consumer products. I don't think there will ever be such a time. It is one thing to allow IRA's to be used to invest in a home. It is one thing to allow the investment in the education of children or to take care of a serious unexpected medical illness, as has been done under some of the other IRA proposals. But to encourage people to deplete their savings to go out and buy durable goods is very short-sighted. My friend from New Mexico says he is confident that would result in a net positive for the economy. But, how does he know that? I do not know that. And he cannot know it. We can't afford to take that kind of risk with the retirement savings of millions of Americans.

My friend from Pennsylvania says that he talked to the Secretary of the Treasury and he says it was an interesting idea. Boy, I have used that line a lot of times without making a commitment on it. And that is what you are facing here.

So I strongly urge my colleagues not to buy this one. If you do, all the work that the chairman and ranking member of the Appropriations Committee have done on this supplemental appropriations bill could be for nothing. This critical and essential bill could go down the drain.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I wonder if I might have 4 minutes.

Mr. BENTSEN. In opposition to the amendment?

Mr. CHAFEE. Yes.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. BENTSEN. I am glad to yield 4 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join with the distinguished chairman of the Finance Committee in opposition to this amendment. This is a very, very difficult position for me to take because I have such respect for the sponsors of the amendment.

Setting aside the arguments that the chairman made regarding the fact that this would blue-slip the entire bill should the amendment succeed and it go back to the House—I think he presented those arguments very, very well—it seems to me we get back to the fundamental question that we are caught in a crossfire here, Mr. President. We are urged on the one hand to increase our savings in the United States. So IRA's were developed. And all of us, at least those that fall in the proper income brackets, use the IRA's as a form of saving, it is an inducement to save.

And then on the other hand, we have some saying the trouble with this recession is the consumer does not have confidence, the consumer is not out

there spending enough. And so we have amendments such as this that would permit the more rapid and earlier drawdown of IRA's than currently is possible under the law.

I want to associate myself with the remarks that were previously given by the senior Senator from Texas. I just do not believe that is truly going to be a stimulus for the economy. I think there is probably going to be a rush on; it would disturb the banks with this withdrawal; there would be fewer savings obviously available.

Then what is it going to be used for? I do not think its going to be used—I may be mistaken; who knows?—but I just do not think it is going to be used for the major big ticket items that are going to be necessary to pull us out of this recession. I hardly think somebody is going to go out and buy a new automobile because they have some money in an IRA and they can pull it out early. In this kind of a mood that people have, your determination to buy a new car or not is based upon how good your job is, and whether you are going to keep your job. And your determination whether you are going to buy a new House is what are your job prospects, your wife's job prospects, are you going to keep the job, either of you. You do not make a decision to go out and buy a home, or buy an automobile because you can pull some of the money out of an IRA, and have to pay the income tax over a 4-year period.

So it does not come free. I would like to believe that it is going to be of help in pulling us out of the recession, but I have a feeling it is really not.

Now that does not mean we should not do something. And we have had the privilege of meeting with the distinguished Senator from New Mexico on what we should do. And of course everybody has different ideas.

But I would like to take this opportunity to submit to this body that what we ought to take are those steps that are going to encourage our competitive position in the world, and that is encourage our manufacturers to invest in more productive machinery so we can better compete. I think the route that that leads us to is the reinstallation of the investment tax credit.

Now, Mr. President, I am sure many will laugh to themselves when they hear that because the distinguished chairman of the Finance Committee for years, the senior Senator from Louisiana, used to say this, I will never forget, when we had our tax reform efforts—not efforts, when we reformed the Tax Code in 1986 and repealed the investment tax credit. He said, you will be back here reinstituting the investment tax credit when times are bad.

And I think he is right.

So, Mr. President, while I reluctantly rise in opposition, not solely for the procedural reasons but also for the reason I just do not think it is going to do the job, I would commend our good friend from New Mexico to keep up his efforts. He is giving us leadership on this side of the aisle, anyway. And I hope we continue to look at reinstituting the investment tax credit which I really think will do something positive, to pull us out this recession.

I thank the Senator from Texas.

Mr. BENTSEN. Does the Senator from Delaware care for some time?

Mr. ROTH. Yes.

Mr. BENTSEN. How much time do we have left?

The PRESIDING OFFICER. Eleven-and-a-half minutes.

Mr. BENTSEN. I yield 4 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, the Senate must not approve this amendment. I believe this proposal would compound the already devastating savings crisis in America.

I, too, have the greatest respect for the two Senators who are proposing this amendment. But as has already been said, it will neither help this country from the standpoint of savings, nor will it have the beneficial effect that they intend it have, to move this country out of a recession and into better times.

I greatly regret that the United States is not a savings country because it is affecting our ability to compete with other countries. It is a fact that the average 50-year-old only has savings of around $2,000—a deplorable fact. I am sure everyone here would agree with me.

But to propose now that individuals could take up to $10,000 for consumption is a very shortsighted proposal in my judgment.

What we are trying to do in the IRA, the super IRA that the distinguished chairman of the Finance Committee and myself are sponsoring, is to promote savings. It is true that we provide certain conditions under which it can be withdrawn—in the event of a crisis in health, to buy the first home, to send a child college. But those are incentives to get people to save more. And there is nothing attached to that here. This, in my judgment, is a dangerous precedent. If this becomes law and the courts would enforce it, it would mean every time there is some kind of crisis we would open the process of withdrawing funds, which is exactly the wrong way to go if we are going to promote growth and jobs in this country.

I also agree with the distinguished chairman when he says this proposal is not constitutional. This is a revenue measure. If it was adopted by the Senate, there is no question but what the House would reject it, and the entire supplemental bill would be gutted as a result.

So I hope my distinguished friends would not support this amendment. Both the chairman and I are strong believers we have to do something in the tax area to provide some help to both the American people and to the economy. But this is not the place, or time, or means of doing it.

So I encourage my colleagues to vote down this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senaltor from Pennsylvania.

Mr. SPECTER. Mr. President, I am a little surprised by the arguments advanced by the three speakers in opposition to this amendment because the Senator from Texas and the Senator from Delaware are sponsors of a very similar bill to have IRA's in the future, where they could be used for important purposes, like first-time home purchases, for college tuition, or medical expenses.

So, they are principal exponents of the proposition to have IRA's to be expended for important purposes of public policy. And that is precisely what is being done by this amendment.

When the country faces the serious problems we have now, I hardly think it is logical that as the Senator from Delaware says this is a terrible precedent because every time a problem arises we will be doing this sort of thing.

I would say to the Senator from Delaware that when a problem is as perilous as the economy of the United States is today, it is high time the Senate took some action. I do not think this Congress sought to go into recess. I do not think we ought to leave here after Thanksgiving for the month of December when the United States faces the serious problems that we have.

We should not be on vacation when millions of Americans are on a forced vacation by unemployment. When the Senator from Rhode Island says we ought to be doing something about it, we ought to have an investment tax credit, I agree with that. Let him bring a bill to the floor for an investment tax credit. We ought to be doing that to stimulate the economy, to encourage producers to have new equipment, to provide more jobs for Americans. But let us not all be nay-sayers. Let us find something which is useful. We have some great brain power in this body and some of those with the great brain power in this body are arguing against this bill.

We have the Senator from Texas and the Senator from Delaware and the Senator from Rhode Island who have been on the Finance Committee for five decades among them. Let us see tham bring forward some ideas which will help this country out of its serious economic problems.

When the Senator from Texas says he heard a great argument from the dis-

tinguished Senator from New York [Mr. D'AMATO] on credit cards, what does that have to do with the proposal that Senator DOMENICI and I are advocating? Every time something comes up there is some non sequitur about the credit card issue, it does not make any sense.

The Chairman of the Federal Reserve, Alan Greenspan, and the Secretary of the Treasury, Nick Brady, and Michael Boskin, the Chairman of the Council of Economic Advisers, said it was a lot more than interesting, but they are waiting to see something happen from the Congress.

Frankly, this Senator is also waiting to see something happen. We have a duty to the American people to advocate something constructive and positive. If somebody has a better idea, this Senator will be delighted to withdraw his amendment. But I heartily disagree with everybody saying, 'No, not now," and "massive withdrawals." we need some confidence in the American people on consumer purchasing power. People are worrried about what is going to happen to their jobs.

I would paraphrase Franklin Roosevelt who said, "all we have to fear is fear itself." If the American people and the consumers see something constructive coming from the American Congress besides a lot of nay-saying, and others join in spending—people do have money but they are afraid to spend it. But if there is some concerted action taken to lend some purchasing power, consumer purchasing power—and it is their money, they do not have to take it if they do not want to. There is simply no penalty, and they pay the tax in 4 years.

This business about it being unconstitutional is simply not correct. The House considers appropriations bills to be revenue measures. I have sent for the precedents with Bob Dove, who is a noted expert on the Constitution. I have some familiarity with the subject myself. My research guide has come with some tools.

So I will yield the floor at this point, after inquiring what the remainder of time is that remains.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. How much time?

The PRESIDING OFFICER. Six minutes. The Senator from Texas has 8 minutes remaining.

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, I agree with the distinguished Senator from Pennsylvania that the time has come for action. But I think it is important, in taking action, that we do what will not only help the short-term problem but the long range as well.

The problem with this proposal before us is that it is short range. It will take out savings from the Nation that is needed desperately for our long-term competitiveness.

I will say to the distinguished Senator from Pennsylvania that I wish he would look at my proposal, jog America, or the tax proposal introduced by Senator BENTSEN and sponsored by me in which we are, taxwise, trying to address the very problems we are discussing now. But there is a right way and a wrong way of doing that. While we want to jump-start the economy short term, it is critically important we do not do it in such a way that we hurt or damage the long-term growth prospects of this country.

I urge and I will send to my distinguished colleague my proposal which I introduced about a month ago to deal with the very problem with which he seeks to deal. I agree with my colleague. I would like to act, and think we should stay and do that now because I think the people are concerned and they are deeply concerned as to where this country is going.

Mr. President, there is a right way and a wrong way, and drawing down savings now short term is not going to help this Nation longer.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Will the President advise me when I am down to 2 minutes?

The PRESIDING OFFICER. The Chair will do so.

Mr. BENTSEN. Mr. President, my friend from Pennsylvania says that these bills that the Senator from Delaware and I have introduced on the IRA are comparable to what he is proposing today. He could not be more wrong. What we have done is to reinstate the fully deductible IRA—and create a new type of IRA. This amendment does nothing to promote savings. Our bill would allow some IRA withdrawals, but only for long-term investments—investing in that first home, investing in your children to send them to college, to pay for costly medical bills and then, of course, for retirement. But all those proposals promote new savings, making the IRA more attractive to millions of younger Americans.

Ours is prosavings. The proposal of the Senator from Pennsylvania is antisavings. It would hurt the long-term strength of the economy, by reducing the savings pool of this country. The annual savings rate in this country is about one-fourth what the Japanese save per capita, United States savings is less than half of what the West Germans save per year. Is it any wonder that we have a shortage of capital in this country?

What my friend is talking about is not a minor piece of legislation. It is major because it could affect the very fragile economy that we have in this country today. Do we really want people drawing down the retirement savings of this country to buy TV sets—to spend it on boom boxes.

The Senator from Delaware and I agree that something has to be done and has to be done soon, and that is why I have announced hearings on our tax legislation for next Tuesday. I urge my friend from Pennsylvania to be there. We would be delighted to have the Senator come and talk about his proposal. But a major piece of legislation like this—with its possibly serious effect on the economy and on the banks of this country, which are already in fragile condition—deserves full consideration of the committee of jurisdiction—the Finance Committee. I would be delighted to hear the Senator from Pennsylvania on Tuesday to tell us why he thinks this proposal will work.

But I say to my colleagues, what we need to do is to encourage savings in our country. Savings that are going to be used to help improve the productivity of our country, to help educate our people, to see that young couples who are having to live with mom and dad can own a home of their own. That is what we provide in the Bentsen-Roth IRA. That is the way we ought to go to invest in the future of our country.

I retain the remainder of my time.

Mr. DOMENICI. Will the Senator yield me 2 minutes?

Mr. SPECTER. I do.

Mr. DOMENICI. Let me first say this measure will last only 1 year, and that 1 year will start the date it becomes law. Second, Senator CHAFEE wondered whether people would indeed spend it for the things we have been speaking of here. I assure him they will spend it for that or they will have their penalty imposed, because they have to prove that to the IRS, just like you do on any other items within the Tax Code. It says that in the law, that is all you can spend it for and be entitled to be penalty-free and the 4-year payment of your taxes.

To those who oppose this because they are worried about savings, let me once again state the following: The Senator from New Mexico will join with anyone who will change our laws so that we will save more on a permanent basis. One of the reasons we are in this recession, or downturn—not the total reason, but one—is because we do not save enough. The problem now is not saving more. In fact, no one will tell you that they want the American people to save more now. In fact, they are saying they want to spend more, if anything.

Those who know about the economy are begging Americans to take money out of their savings account and spend it because we need customer purchases and confidence to come out of this downturn. We are merely saying that out of the $800 billion in IRA's and 401(k)'s, a small portion in the next year could be withdrawn for these purposes by the people we have described here. They will use it for the items we

say they will use it for in the law, or they will not be entitled to have their penalty forgiven and their 4-year tax payment of the $10,000 that they take out of their IRA's.

I submit that if only $40 billion came out, or $50 billion, the economic prophets are doomed. They say we will have runs on banks. They are absolutely insane. You would have to draw $200 billion out of these accounts for a significant impact on savings. Actually, anywhere from $40 billion to $50 billion to $60 billion taken out of IRA's that would not otherwise come out would be a magnificent consumer purchase injection into this economy. None of the tax bills that have been introduced to fix this economy will do that much in consumer purchasing power, not a single one introduced by the distinguished chairman or others. In 1 year from $40 billion to $60 billion would flow into the economy for the purchase of big ticket items. Nobody's tax proposal does that.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, a number of objections have been raised to this amendment, and I submit none has any validity. I will start with the one about it being unconstitutional and cite as precedent an amendment on a continuing appropriations bill on September 24, 1981, which would leave the $3,000 limit on expenses away from home, challenged in the Senate, sustained as an appropriate amendment on continuing appropriations, accepted by the House of Representatives and became law.

I can give you many more precedents, but I found this one in response to the argument by the Senator from Texas.

This conclusively proves that the argument by the Senator from Texas is wrong on the constitutional issue, and I submit the other arguments raised are similarly invalid.

When the Senator from Texas tells me about hearings next Tuesday and invites me to come, I already know about them and I have already made an application to appear before the Finance Committee.

When the Senator from Delaware says this may be short term but we need something that is long term, I am delighted to do something that is long term and I am glad to hear the Senator from Delaware say he thinks we ought to stay in session, too. I believe that the Congress of the United States ought not to take off in December. I will be glad to appear, as I plan to be before the Finance Committee, to expound upon this bill. I would like to see the Finance Committee take up a variety of measures and apply the talent there to find an answer.

When the Senator from Texas says that there ought to be full consideration by the committee of jurisdiction, I think the American people want something besides hearing about the committee of jurisdiction. That is what this argument is all about. The members of the Finance Committee, the Senator from Texas, the Senator from Delaware, the Senator from Rhode Island, do not like a matter being taken up which is within their jurisdiction. It is time not to talk about jurisdiction; it is time to talk about answers.

There is nobody in this body who knows more about finance and budget than Senator DOMENICI. He served as chairman of the Budget Committee for 6 years with great distinction, and when anybody wants to crunch the numbers, they come to PETE DOMENICI.

When he cosponsors this legislation and exercises his judgment that it will put $40 billion to $50 billion of consumer purchasing power into the economy, that is significant. It is time we did something, Mr. President, besides naysay.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. BENTSEN. And the other side?

The PRESIDING OFFICER. Thirty seconds.

Mr. BENTSEN. Mr. President, this is not a minor amendment. If you vote for this, and if it carries, tomorrow morning when you hear the replies of the financial institutions of the country, you will be looking for a hole. You will be wishing you had not voted that way, and you will be trying to explain.

With Senator SPECTER'S amendment, we are talking about depleting long-term savings. That is the exact opposite of the legislation the Senator from Delaware and I have proposed. In the Bentsen-Roth IRA bill, we are talking about making long-term investments in the education of our children or buying that first home.

We think those are the positive things that have to be done. We are talking about permanent legislation, not some short-term spending spree that could affect the fragile economy; that could bring about a drain on the banks where they are having a very difficult time retaining enough liquidity today.

After all that, let us not forget what happens between the House and the Senate; and the relationship established between the two bodies by the Constitution. The authority to kill this bill is in the House, and the Ways and Means Committee will kill it. That means the appropriations bill could be voided, if this amendment were included.

Mr. BYRD. Will the distinguished Senator from Texas yield?

Mr. BENTSEN. I will be happy to yield.

Mr. BYRD. Mr. President, I support the position taken by the distinguished Senator from Texas. I only make this statement, which will be a little contrary to what he just said: The Ways and Means Committee maybe will blue-slip this. It will be blue-slipped before it gets to the House. It will be blue-slipped in the conference.

This is obviously a measure which is under the jurisdiction of the Ways and Means and Finance Committees, and under the Constitution revenue-raising measures must originate in the House. So I hope Senators will not take this amendment seriously in that it is being offered to this bill. We hope to get a bill to the President. This is a dire emergency bill. This bill is not going anywhere if we continue doing what we have been doing all afternoon.

I hope that Senators will vote to table the measure if the distinguished Senator from Texas moves to table it, because it is not going anywhere. It is not going anywhere in conference with this amendment on it, if it is adopted, and I do not want to see this bill go down the drain. We invested too much work in it already.

The PRESIDING OFFICER. The time has expired.

Mr. BYRD. I thank the Senator.

Mr. BENTSEN. I thank the Senator for his wise advice, and I will move to table when the Senator from Pennsylvania has used his allotted time.

Mr. DURENBERGER. Mr. President, I join the distinguished chairman of the Senate Finance Committee in opposing the amendment that would allow tax-free withdrawals from individual retirement accounts as a method of stimulating consumption in the economy.

Mr. President, none of us knows the short-term and long-term economic implications of this proposal. We already have one of the lowest savings rates in the world and this proposal will only serve to further drain savings. No one would doubt that this economy needs stimulation. Our factories need to be more productive; we need to increase our ability to compete abroad. We need more investment and we need more consumption.

I am convinced that we may need an economic growth package that will help jumpstart the economy. But piecemeal consumption measures written on the Senate floor as part of a supplemental appropriations bill will do nothing to help this economy. This will kill the appropriations bill because such tax legislation must originate in the House.

Mr. President, I know the chairman of the Finance Committee will be holding hearings on the state of the economy next week. I trust that the Congress and the President will act appropriately if a tax cut bill is necessary. However, this is not the appropriate time nor place to be putting together a tax bill.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has one-half minute.

Mr. SPECTER. Mr. President, when the Senator from West Virginia says he hopes the Senators will not take this bill seriously, I hope Senators will take seriously the serious problems of the economy. When he says this bill will go down the drain, I think it is a lot more important that the economy may go down the drain.

This is a positive step forward, and I urge my colleagues to vote for it and to resist the motion to table.

The PRESIDING OFFICER. Time has expired.

Mr. BENTSEN. Mr. President, I move to table the amendment, and I am joined in it by the distinguished Senator from Delaware.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 31, as follows:

{Rollcall Vote No. 269 Leg.}

YEAS—66

Adams	Durenberger	Metzenbaum
Akaka	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Nunn
Bingaman	Gore	Packwood
Boren	Gorton	Pell
Bradley	Graham	Pryor
Bryan	Hatch	Reid
Bumpers	Hatfield	Riegle
Burdick	Heflin	Robb
Burns	Inouye	Rockefeller
Byrd	Jeffords	Roth
Chafee	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Symms
DeConcini	Leahy	Warner
Dixon	Levin	Wellstone
Dodd	Lieberman	Wofford

NAYS—31

Bond	Helms	Sasser
Brown	Hollings	Seymour
Coats	Kasten	Simpson
Cochran	Lott	Smith
Craig	Lugar	Specter
D'Amato	Mack	Stevens
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Garn	Murkowski	Wirth
Gramm	Nickles	
Grassley	Pressler	

NOT VOTING—3

Breaux	Harkin	Kerrey

So the motion to table the amendment (No. 1409) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I would like to try to get a reading on a list of amendments that I have before me.

Mr. President, may we have order in the Senate? We do not have order in the Senate. I am looking at a couple of my friends on the Republican side.

Now let me see if I have order over here?

The PRESIDING OFFICER. Those Senators wishing to chat will please retire to the cloakroom.

Mr. BYRD. Mr. President, I think the time has come for some serious talk. The distinguished majority leader has indicated that if the bill is not completed tonight then the Senate will be in tomorrow, and I think that we must continue to go tonight as long as we can go, because even so, we will not finish tomorrow unless we get more work done this evening than we have done thus far.

This is a dire emergency supplemental bill. It is not a bill that should be a vehicle for various and sundry legislative amendments. If we had plenty of time, I could understand the feeling of necessity on the part of some Members to try to put their rider on this horse.

This horse is not going very far. I intend to drop a great many of these amendments in the conference because the President is going to veto it anyhow, so we might as well just kill it here if we continue to add these amendments.

I do not say that disrespectfully of any Senator who is serious about his amendment. But there has been a good deal of work done on this bill and obviously it is not a bill on which we ought to try to attach revenue amendments. We have had already two or three efforts of that today, and the Constitution, if we have read it lately, indicates that revenue-raising measures must originate in the House.

So we are wasting our time in calling up revenue measures, and those bills are not going to be blue slipped by the Ways and Means Committee. They are going to be blue slipped right in the room across the hall here when the conference meets.

I have 25 amendments listed on the Democratic side, and I have 35 amendments on the Republican side. And 35 and 25 add up to 60.

Now, I have been talking with my friend, Mr. HATFIELD, and it is my feeling that after a little more patience is demonstrated on the part of Mr. HATFIELD and myself, inasmuch as we only have 1 day left this week, that is Saturday, and we only have 2 days next week, if we hope to get out of here in time to give Senators an opportunity to catch their planes and make arrangements to get out of town before Thanksgiving, I thank that a desperate situation requires desperate action. So, it would be my intention if my friend will join me, and if he does not, I may try it anyhow, to move to table amendments that are legislative in nature and that are not of an emergent nature. This is a dire emergency bill.

I hope Senators will understand that I recognize their right under the rules to offer the amendments. I recognize how each Senator feels that his amendment is of such degree of importance that he should make an attempt to get it on this bill.

But it is not going anywhere, I tell my friends, and in order to save time, then, after a little while longer, after sitting here a little while longer, I am going to let Senators know when I am ready to start moving to table amendments that are legislative in nature, or that are not of a dire emergent nature. I am going to move to table.

Now the Senate might not want to table. I fully understand that Senators may vote otherwise. But, we have to take some extraordinary action here if we hope to complete this bill.

If we were going to be in session all next week, and all of the next week, it would be a different thing. We would have a lot of time for some fun. But the time is running out. And so I hope that Senators will understand the spirit in which I am saying these things. I am not angry. I am not impatient. I just feel that one has to face up to the reality of things, and the reality is that we hope to get this bill passed, and I do not want to go home and have the President charge Congress with not having passed a dire emergency supplemental.

Let me read the list.

Mr. HATFIELD. Will the Senator yield for just a moment?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, I thank the Senator for yielding. I would like to associate myself with the remarks made by the chairman. I will be a happy and willing partner for the extraordinary action that he has indicated might be taken.

Mr. President, I would like to just make one observation. From my perspective as a member of the Appropriations Committee, we have spent more hours in this Senate on amendments on

appropriation measures than any other vehicle we act upon. I would only like to suggest that if you look at the number of amendments that have been adopted on Appropriations Committee bills in the past and the numbers that survive the conference, it is indeed a very poor cost-benefit ratio. The hours do not justify the efforts that have been made for those amendments.

I am using this as an illustration. We may add 35 amendments, and 2 survive the conference. That is the history of the appropriations conference because the House has more strict rules governing what can and what cannot be on an appropriations vehicle than the Senate has.

And the House just sits there in these conferences and says to us: It may be meritorious, but it does not fit our rules.

So I plead with the Senate as well to just learn out of our history that the hours we spend in this exercise do not bear results or fruit.

Mr. President. I again respect everybody's right to offer amendments on vehicles because our rules of procedure provide that right. But let us look at it pragmatically, and the practical aspects of how much good it does to spend the hours on some of these amendments when they have absolutely no chance of surviving, and the rotunda of this Capitol is full of thieves that rob these amendments from the Senate vehicle before we ever get over to the House on occasion. I just think that ought to be understood, too.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. MITCHELL. Mr. President, I strongly endorse the words of the distinguished chairman of the Appropriations Committee and urge our colleagues to permit prompt disposition of this measure.

And I now make an appeal to the self-interest of Senators. We have to complete action on this bill and then we are going to proceed to the Defense Department appropriations conference report, which I am advised will stimulate some debate—I hope not excessive—but a reasonable and fair and appropriate amount of debate.

It is my hope, and I have discussed this with the distinguished Republican leader, that we will then be able to go to the CFE Treaty. There is something which the President has asked the Senate to take up and consent to: the Secretary of State has asked repeatedly. We are now in the awkward situation where we have proposed taking that treaty up, but are now prevented from doing so by Republican objections to dealing with that treaty.

I know the distinguished Republican leader is working to eliminate those objections, but I appeal to my colleagues on the ground that this is an important measure for the country and something which the President has negotiated, which the President has asked us to act on and the Secretary of State has asked us to act on, and yet we are prevented from going to it at least up to this point because of Republican objections.

So I know the distinguished Republican leader is doing his best, working diligently in that regard, and I hope he is successful. In any event, we will have to proceed to it. If we cannot do it by consent, then it means a somewhat longer process involving the possibility of lengthy debate and numerous amendments, which I hope does not occur because I personally support the treaty and commend the President and the Secretary of State for its successful negotiation.

Mr. President, I have been asked by a number of Senators on both sides of the aisle about various items that have been before us and that may be before us. I would like to just state briefly that, both Houses now having passed the banking bill, that matter is now the subject of discussion with Senate and House participants, the Secretary of Treasury and others representing the administration. We have to act on that bill. We have to act on the Resolution Trust Corp. funding bill. That is essential.

The surface transportation bill is in conference. I know the conferees met very late last night, and into the early morning hours today. We hope that progress is being made there and that we are going to be able to act on that.

The conference has begun or I expect shortly will begin on the crime bill. We hope to be able to complete action on that measure as well.

The Finance Committee met this morning on the question of the Medicaid regulations, and I know that the administration and the Governors have worked out an agreement. Senator BENTSEN's committee has reported out a proposal that we are going to try to deal with. I hope it will be the subject matter of an agreement.

I do want to say that we will not be taking up the energy bill this year, but I do intend to give it a very high priority early next year. I know a lot of work has been done on it, particularly by the distinguished chairman of the committee, the distinguished Senator from Louisiana. I have discussed the matter with him and with the distinguished Republican leader. While it is, in my judgment, not possible to complete action on that legislation this year, it is important that we have a comprehensive national energy policy, and this is the matter which I intend to give a very high priority early next year. I look forward to working with the distinguished Senator from Louisiana in that regard.

Mr. President, I do not want to create the implication, if I have left anything out for this year, that I have suggested an exclusive list. There are several other things that we are going to take up and deal with. The distinguished Republican leader and I meet now on an almost continuous basis. I have attempted to highlight some of the important measures to buttress the points made by the distinguished chairman of the Appropriations Committee about the need to move promptly on this bill.

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

Mr. DOLE. I want to underscore what was stated by both managers. I would not wait too long. I would hope your patience is wearing thin, because we have been in fairly late every night this week and we will be in late this evening—we anticipate that—and we will be here tomorrow. I would say if the list got too long tonight, we would have to have something to do tomorrow in addition to the other matters listed by the distinguished majority leader.

I would be prepared to table all of them en bloc. Just ship them all up there and we would have one vote on 45 amendments. I think it would be unanimous.

These are very important amendments. Everybody has a right to offer amendments, but this is a dire emergency supplemental appropriations bill. I have given the distinguished chairman two pages of amendments on this side. In some places there is a name that has three amendments following it, so it is probably more than the two pages. If I understand this is satisfactory with my colleague, Senator HATFIELD. We are prepared to say we will not add any more amendments on this side. Hopefully within the next 30–40 minutes we can trim that list substantially. But I want to cooperate with the chairman and Senator HARTFIELD, and I think most members do. Whenever the chairman indicates that he is prepared to start tabling amendments, then I think he will have cooperation on both sides.

Mr. MITCHELL. Mr. President, if I just might add one point. We want to get this done because Senator DOLE and I are united in our determination that we are going to adjourn prior to Thanksgiving. Every Senator here—almost every Senator—has come up to me at some time or other in the last few weeks and said, "Now we have got to get out of here prior to Thanksgiving, and I encourage you, I urge you, I applaud you," various words of support. But each of those Senators must recognize that when this comes to delay, in the famous words of Pogo, "We have met the enemy and it is us." So we cannot have it both ways.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. We will be coming back next year. If we miss anything, next year, we will have another chance.

Mr. MITHCELL. That is right. There will be ample opportunity for Senators who feel they have something that is important to deal with it, recognizing again every Senator has a right to offer amendments. But those Senators who expressed a desire to complete action so that we can adjourn prior to Thanksgiving must recognize that, to the extent they contribute to the delay, they make it more difficult to obtain that objective.

Mr. BUMPERS. Before the majority leader yields the floor, will he yield for a question?

Mr. MITCHELL. Certainly.

Mr. BUMPERS. Would you like to provide some incentive to finish this bill by saying, for example, if we finish this bill tonight, we would not be in tomorrow?

Mr. MITCHELL. I am very sorry that I cannot say that because I have already said exactly the opposite of that twice today. When we finish this bill, we are going to go to the defense appropriations bill, and then it is my hope to go to the CFE Treaty tomorrow.

Mr. BUMPERS. So we will be in tomorrow regardless?

Mr. MITCHELL. Yes, we will.

Mr. BUMPERS. Then I do not care if we finish this bill tonight or not.

Mr. MITCHELL. I can provide a different incentive. If we do not finish enough matters tomorrow, we will be in Sunday. So maybe at some point tomorrow I can suggest that alternative, which I have been reluctant to do, because I have learned to take these days one at a time. But I hope the Senator will cooperate with us by permitting completion of this matter.

Mr. BUMPERS. I do not have any amendment. I will be here.

Mr. MITCHELL. I thank the Senator. That is a wholesome attitude.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. When the majority leader has finished.

Mr. MITCHELL. I yield to the Senator.

Mr. METZENBAUM. I am a supporter of what the Senator from West Virginia is attempting to do. I just heard the minority leader speak to the subject and say it is a dire emergency bill. As I read what is being done, I question whether it is of such dire emergency.

I am not looking for a confrontation or a dispute with the manager of the bill, but I wonder what is the urgency of doing this since it appears to be a transfer of some funds that came out of Desert Storm that the Arabs have been paying us that appears to pick up six helicopters and certain other items. I am not here really trying to make an issue, but I really am sort of asking why is there such a dire emergency that it could not be in a regular appropriations bill?

Mr. BYRD. I suppose I should answer the distinguished Senator by saying, if we did not pass this bill this year, we would be back in February and pass a bill at that time. But as the chairman of the Appropriations Committee, I am very reluctant to go home without passing this bill. I do not want the President to say the Senate could not pass or the Congress could not pass a dire emergency appropriation bill. There are some items in this bill that are of an emergent nature. There are others I do not consider to be. Some of them were voted in by the House of Representatives.

I can only say I think we have a responsibility to try to pass this bill and do it as soon as possible. Once we pass this bill in the Senate, those of us on the Appropriations Committee of course, as the Senator knows, have to go to conference and work there. And if we are going to be out next Tuesday and the President should elect to veto this bill, then we are at home and he has a pocket veto.

Mr. METZENBAUM. Is there anything that would affect our Nation's security adversely, if he did veto it? Or if we did not pass it?

As I looked over the items in the bill, and I do not claim to be an expert in this area, but I looked at six helicopters are being purchased. I looked at the AH64, which is an Apache helicopter that was not in the House bill but is in ours.

I am not taking issue about any of these items, but I just was, really, raising the question of why do we have to act at this point. And I think the Senator has already answered that we probably could do it in February. But there may be some things that are of a more urgent nature. I was asking whether there was anything specific that could be pointed out that falls into that category?

Mr. BYRD. Well, I think there are some items that are of an emergent nature in here. I do not think that this is a particularly needful question or answer, really. I had my mind set on trying to pass this bill.

There will be some items in conference that we may not consider to be emergent. I hope we can drop them.

Let me now read the list of amendments. I am not sanguine about getting agreement on the list, but I think Senators ought to just have an understanding about what amendments are going to be offered.

Pressler on GATT.

Kasten amendment on capital gains.

Kasten amendment on boat tax.

McCain amendment on defense. Whatever that is.

McCain amendment on the environment.

Warner, Washington National Airport amendment.

Warner, relevant.

Bond amendment on TWA.

Wallop amendment, Marine Corps modernization.

Danforth-Nunn amendment on university research.

Nickles amendment, change the marketing year definition.

Nickles amendment, an Interior technical amendment.

D'Amato amendment, Air National Guard.

Stevens amendment, *Exxon-Valdez* settlement fund.

Stevens amendment, dealing with salmon.

Stevens amendment, Senate seal.

Stevens amendment, technical correction.

Coats amendment on crop insurance.

Coats amendment, relevant. That does not tell us very much.

Gramm amendment, relevant. Same as the above.

Gramm amendment, delete nondire.

Hatfield amendment, unspecified.

Hatfield amendment, relevant.

Helms amendment, relevant.

Helms amendment, relevant.

Kassebaum amendment, family farm.

Kassebaum, relevant.

Dole, unspecified.

Burns amendment, Bureau of Indian Affairs and Parks.

Garn amendment, relevant.

Symms amendment, special prosecutor.

Murkowski amendment, National Freedom Act.

On the Democratic side:

Bingaman, R&D Defense Subcommittee.

Boren, Soviet tech assistance.

Bumpers with Pryor on FERC.

Byrd has a substitute for the bill. I hope I do not have to call it up.

Conrad, an amendment on end use certificates on foreign grain.

Bradley, Buffalo Bill Dam.

Cranston, money for scientific study on old growth forests.

D'Amato-DeConcini, Udall provision; make one feed grain base rather than separate.

Fowler, Hunting Safety and Preservation Act.

Kohl, high moisture corn, and a second amendment on refundable assessments.

Leahy, direct FHA to earmark funds for certain projects.

Levin, impact aid for school in Michigan.

Nunn, DOD university research, DOD museum funding, and Soviet nuclear destruction.

Pell, NOAA disaster relief for shellfish.

Pryor, SDI related.

Riegle, 50–50 Federal-State cost for low-quality fruit; include fireblight as disaster eligible; and make more dollars available for rehabilitation; to remove crop insurance criteria FMHA disaster funds; and increase appropriations for small business affected by agricultural disasters.

So, some of those I would understand probably are appropriate and can be adopted perhaps without debate or without much debate.

But there are others on there, as Senators will have noticed, that are pretty far-ranging and far-reaching.

So, Mr. President, I ask unanimous consent that those amendments—that the remaining amendments to the bill be limited to the amendments that I have just listed. It does not mean they will all be called up and it does not mean that they will be agreed to, by any means. And I would ask such unanimous consent provided, also, that no points of order be waived thereby.

Mr. JOHNSTON. Mr. President, reserving the right to object, I wonder if the chairman would expand his request by putting in two Johnston amendments, one related to nuclear waste and one related to the Arctic National Wildlife Refuge?

Mr. BYRD. Yes. I ask that they be included in the list.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. And two amendments by Mr. GLENN.

And, Mr. President, provided also that any second-degree amendment be relevant to the first-degree and any unspecified amendment be relevant to the committee substitute.

Mr. JOHNSTON. Mr. President, any second-degree amendments be relevant and germane to the first-degree amendments? I would like an exception with respect to nuclear waste and Arctic National Wildlife Refuge. In other words, I would like the ability to put in second-degree amendments relating to those two matters, to any first-degree amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not know the implication of the unanimous-consent request on the amendments that I have now drafted. So I would have to object, although I hope I will not have to object for long. I just do not know. We will have to check those. We hope they are relevant, but there are very strict rules on that, and I would object at this point.

The PRESIDING OFFICER. May I inform the Senate that part of the request was agreed to.

Mr. BYRD. Mr. President, I present the request.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. METZENBAUM. Does it again have the second-degree rights reserved to the Senator from Louisiana?

Mr. BYRD. Let me say any second-degree amendments be relevant to the first-degree and unspecified amendments be relevant to the committee substitute. Plus—if I may ask the Senator from Louisiana to add his proviso?

Mr. METZENBAUM. I would have to object so long as any one Senator in this body is given special rights over any other Senator. And particularly I do not know what the Senator from Louisiana would be intending to add as a second-degree amendment having to do with energy. I do not want to object, but I do not think it is appropriate to have any special reservation in connection with any particular subject, accorded to one particular Senator.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. JOHNSTON. Mr. President, the subject matter of the amendment which I will seek a reservation for, both in the first-degree and in the second-degree, has to do with drilling in the Arctic National Wildlife Refuge and preemption of the rights of the State to restrict nuclear waste. Both of these matters have been reported by the Energy Committee. The nuclear waste matter has been pending on the floor for some months and I would like very much to have that considered by the Senate. And if this bill is the vehicle for consideration of legislative matters, I think it is very appropriate they would consider it.

I am very glad to restrict the bill to dire emergency matters, but if it is not to be restricted, then I think these matters are more important than other first-degree amendments.

So I personally would object to a unanimous-consent agreement that would restrict the right of this Senator to offer those amendments. So those are the subject matters which I would like to address.

Mr. METZENBAUM. Mr. President, under those circumstances, I have to object.

I must point out that if the Senator from Louisiana, in my opinion, would have a right to offer those amendments in the first degree, they probably would be subject to a challenge on the basis of their not being relevant. And this way, the Senator would have an opportunity to come in through the back door, something he could not do through the front door. So I object.

Mr. BYRD. Mr. President, I can understand the objections. I have been around here quite a long time.

The PRESIDING OFFICER. Will the Senator from West Virginia withhold for an explanation? I say that the Chair did call for the earlier request, which was granted. The modified request is still in question.

The Chair did grant the request that included the list that the Senator from West Virginia read, but not the following request, which was modified.

Mr. JOHNSTON. Mr. President, is the Chair stating that the request for the Senator to limit, with the right of the Senator from Louisiana to put on a first-degree and second-degree amendments, was granted?

The PRESIDING OFFICER. The request that was granted was just to the list of amendments that was read by the Senator from West Virginia, and it did not pertain to the secondary amendments.

Mr. JOHNSTON. Mr. President, I do not believe the Chair called for a unanimous consent with respect to the limitation of the first list. I do not believe unanimous consent was granted with respect to that, because I made a reservation on that. I have been right here and made a reservation on that.

Mr. BYRD. Mr. President, I would rather see the request—I would rather see the announcement of the Chair vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I say that because I believe there was ample reason for Mr. JOHNSTON to be confused, and others as well, including myself, as to just what the status of things were. I respect the Chair greatly, especially the Member who presently occupies it, and I know he is trying to move forward in an orderly way. But I am glad we have vitiated that agreement.

I would like to present the agreement again, so that all Senators will understand what we are doing. I would like to renew my request concerning the list of amendments that I read, and that is all I will request right now—just the list that I read. Other Senators may reserve the right to object and ask for a request that they like.

Mr. JOHNSTON. Mr. President, reserving the right to object, I request the distinguished chairman to amend the request to allow first-degree amendments relative to Arctic national wildlife refuge drilling, and with respect to nuclear waste preemption in the first degree and in the second degree, with respect to any first-degree amendment.

Mr. METZENBAUM. I object.

Mr. GLENN. I wonder if the distinguished Senator from West Virginia will yield for a question?

Mr. BYRD. Yes, I will yield the floor shortly.

Mr. GLENN. I wanted to find out if I was included in there. A CHAMPUS reform initiative, in the long haul, will save us money. That I was concerned about; I want to make sure that was on there.

Mr. BYRD. Yes; the Senator has two amendments on there.

Mr. GLENN. I thank the Senator.

Mr. BYRD. May I say before I take my seat, many times I have seen—and I am sure the distinguished Republican leader, who is on the floor and has worked with me over the years, has seen—a very long list of amendments that were included in such a request. And nearly always, it has worked out, as far as I can remember, a good many of those amendments are never called up. They are merely put on the list for protective reasons. So while it may

look rather formidable when one looks at the list, it really does not turn out that way.

But the initial step in bringing things to closure, I think, is to try to get a limitation on the number of amendments, so that at least we know when we get through them, there will not be anymore.

So I will attempt, I suppose, again a little later, to try to renew my request. But I am going to beg the indulgence of the Senate to forgive me for starting to move to table amendments pretty soon. I will not say I will try to move to table every amendment, and I may fail to get any of them tabled. But I think we have to make a start on this, or else we will not finish.

Mr. METZENBAUM. Will the distinguished Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. METZENBAUM. I want the Senator from West Virginia to understand the Senator has no objection to his getting a list of first-degree amendments, and I will not object to that. Nor would I object if the Senator from Louisiana listed his amendments as one of your first-degree amendments on your list. He has a right to do that, just as I can make any amendment I want.

What concerns me is the parliamentary situation that would develop if he had the right to offer a second-degree amendment having to do with nuclear waste or ANWR, and I do not want to put the Senate in that position.

I ask of my colleague from West Virginia whether or not he would be good enough to assure the Senator from Ohio that I do not have to stand here every moment of the evening. If the Senator has a request for first degree, I have no problem at all. If the Senator from Louisiana or some other Senator is to get a special reservation, then I would ask that the Senator from West Virginia protect my position so I do not have to stand here all night long.

Mr. BYRD. I certainly understand the Senator's feelings. I hesitate to assure any Senator that I will be able to protect him, because I might not be on the floor. I feel that is a pretty big responsibility for me. But certainly the Senator would hear on the television of any such request. If he called over and said he had to object, I respect that.

Mr. METZENBAUM. Things move rapidly here, and I just ask if before the Senator from West Virginia again propounds his unanimous-consent request, if he would be good enough to give the Senator from Ohio an opportunity to be on the floor with him.

Mr. BYRD. I will be happy to have someone get in touch with the Senator. I will alert him before I make such a request.

Mr. DOLE addressed the Chair.

Mr. BYRD. I yield to the Republican leader.

Mr. DOLE. Mr. President, I just suggest I think you can get the leadership to join you right now in tabling them. I do not know why we want to wait any longer. I see people trying to slip in before the final verdict. In my view, we have had enough time; we have been on this bill for a while. We can be out of here by 9:30 with seven or eight straight victories.

I think people will be discouraged. I will, as the Republican leader, join with the manager of the bill now to table any amendment on either side of the aisle.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I would like to make a couple of observations about this bill, and one of the reasons we are here tonight. I hate to say this, because I have the greatest respect for the chairman. He is not responsible for this bill. but this is not a dire emergency appropriations bill; it is a sham. There is a little, tiny piece of it, about $150 million, that is dire emergency domestic funding designated by the President. The rest of the domestic spending was put in by the House.

In fact, they started this process, having a dire emergency bill, about 6 months ago. It has been languishing ever since. Then they had big votes in the House, and put items in it that make everybody feel good. We are declaring that we need another $100 million for WIC, and it is an emergency, a dire emergency. And we need another $1.2 billion for education, and it is an emergency, a dire emergency. We just finished appropriating those programs in the annual appropriations bills. Nobody believes those are dire emergencies as contemplated in the Budget Agreement.

There is funding in this bill associated with acts of God, such as tornadoes that tore up a town, or maybe crop failure of an enormous size because of drought. This bill only has a piece that is designated as dire emergency funding by the President. The rest of it is more than a bit of mischief. The House puts all these things in knowing that they are not going to be paid for unless the President, after he gets the bill and after he signs it, declares those items to be emergencies. Just think of that. This is the second wave of appropriations following about 2 weeks after we finished the regular bills. We are making everybody in the country think we are really going to do these things, but as a matter of fact, we are not going to do them at all because we put some of this funding in knowing full well we are not going to pay for it. We know the President would not declare $1 billion for education a dire emergency when he has not yet signed the bill providing appropriations for education. That bill is coming back through the Senate. It has not even been signed, and it has increased funding for education. We've completed the bill that funds WIC. Following right behind these bills is this thing we call a dire emergency supplemental appropriations bill.

So it is no wonder that the Senators found this to be a pretty good opportunity, in a sense, to do likewise. To do like the House did, and put anything in it that they like, that they have been waiting around for a year, 2, maybe 3 years, to put on a bill. And some are insisting that they even get a vote.

I am not suggesting we should delay matters. I am merely suggesting that we will waste an awful lot of time. We do not have to have this bill up. We do not have to finish it. But I am for the chairman completing his bill, so I will support anything he wants to get rid of the amendments so we can get on with the business of the Senate. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Parliamentary inquiry. What is the status of the Senate at this time?

The PRESIDING OFFICER. The Senate is considering House Joint Resolution 157.

Mr. REID. Is there still pending a unanimous-consent request?

The PRESIDING OFFICER. The request was objected to.

Mr. REID. Mr. President, I want to make sure that I am heard on this matter and I will do that just very briefly. I wanted to alert my chairman that if there are amendments offered relating to nuclear waste, I want to make sure that I have an opportunity to second degree any such amendment. Therefore, I object, as has my distinguished friend from Ohio, to the previous unanimous-consent request to place not only a first-degree amendment but a second-degree amendment.

AMENDMENT NOS. 1410, 1411, 1412, 1413, 1414

Mr. BYRD. Mr. President, the following amendments have been cleared on both sides, and they are: two technical amendments by Mr. BYRD, of West Virginia; an amendment by Mr. DASCHLE; an amendment by Mr. LEAHY; an amendment by Mr. PRYOR; an amendment by Mr. CONRAD. They have been cleared on both sides.

Mr. DOLE. Have any Republicans been cleared?

Mr. METZENBAUM. Does the Senator from West Virginia mean they have all been cleared? Is that what he means?

Mr. BYRD. These amendments, most of them are technical. They are minor amendments. This is something that is not out of the ordinary. I am not trying to pull anything over on the Senate. They have been cleared.

I send them to the desk. I ask unanimous consent that they be considered en bloc and agreed to en bloc and the motion to reconsider be laid on the

table and appropriate statements explaining them, if there be such, be included in the RECORD as though read.

Mr. DOLE addressed the Chair.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I am not the manager on this side, but I understand there is some question about the Leahy amendment, whether or not that has been cleared on this side.

Mr. BYRD. Mr. President, if I may have the amendment by Mr. LEAHY back. I will eliminate that from the request. The Republican leader is correct. I thank the Republican leader.

The PRESIDING OFFICER. Is there objection to the request?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object, the distinguished Senator from West Virginia proposed sending to the desk an amendment he referred to as an amendment by Senator Pryor, from Arkansas. I am wondering if this is the amendment, in fact, that deals with hydroelectric power in Arkansas. Actually, I think the chief sponsor of that amendment is my senior colleague, Senator BUMPERS. Is this the one?

Mr. BYRD. Yes; the Senator is correct. The amendment is a Bumpers-Pryor amendment.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. And the subject matter is in accordance with what has been stated.

Mr. PRYOR. Mr. President, I thank the distinguished Senator.

Mr. BYRD. I thank the Senator.

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

The amendments (Nos. 1410, 1411, 1412, 1413 and 1414) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1410

SEC. 17. EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102-154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1411

SEC. 17. EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102-154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1412

At the appropriate place, insert the following:

SEC. . AUTHORIZATION FOR SOUTH DAKOTA WATER.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516).

Mr. DASCHLE. Mr. President, I rise today to offer an amendment to address the ongoing water problems in South Dakota. This is a technical amendment that would authorize the Secretary of the Interior to perform a needs assessment of the Rosebud Sioux Reservation's current and future water needs and to determine the desirability, feasibility, and cost of extending the Mni Wiconi water pipeline to the Rosebud Reservation.

The Mni Wiconi project was authorized in 1988 in Public Law 100-516. The goal of the project is to bring decent drinking water to areas in South Dakota where water quality and quantity are unsound, including the Pine Ridge Indian Reservation. Rosebud faces water problems similar to those on Pine Ridge and in other areas in western South Dakota. In order to address these problems, the Rosebud Tribal Council passed a resolution asking to become a part of the Mni Wiconi project. The current beneficiaries of the Mni Wiconi project, namely the Oglala Sioux Tribe and the West River and Lyman-Jones water systems, have passed similar resolutions supporting Rosebud's addition to the project.

In order to determine the wisdom of adding Rosebud to the project, which would require amending Public Law 100-516, it is essential that we better understand the water needs on the reservation, and the feasibility, both technically and financially, of amending the current law. Because Rosebud is outside the project area as defined by Public Law 100-516, the amendment I am offering today is necessary to give the Bureau of Reclamation the authority to perform the study.

It should be noted in the report language accompanying the fiscal year 1992 energy and water appropriation bill, the authority I am seeking by this amendment was granted. However, through an oversight, similar language was not included in the conference report, and the Bureau feels that they need specific authorization to perform the needed study.

I should note that this amendment will not obligate new funds. The Bureau would use unobligated funds, should they be available, to perform the study. I do not intend to have the Bureau use obligated fiscal year 1992 funds for the Mni Wiconi project, unless it becomes apparent that these funds will not be spent for the uses intended in the fiscal year 1992 appropriation.

Finally, Senator BRADLEY, the chairman of the authorizing subcommittee in the Energy Committee, supports this amendment.

This should be a noncontroversial amendment, and I would hope that it could be swiftly adopted.

AMENDMENT NO. 1413

(Purpose: To authorize extensions of time limitations in certain FERC-issued licenses)

On page 24, between lines 21 and 22, insert the following new section:

SEC. 204. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) TERMINATION OF AUTHORIZATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) CONSOLIDATION OF REQUESTS.—To facilitate requests under this section, the Commission may consolidate the requests.

AMENDMENT NO. 1414

(Purpose: To improve monitoring of the domestic uses made of certain foreign grain after importation and to modify procedures for suspension or debarment for use of foreign grain in connection with certain agricultural trade programs)

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

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

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraph (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a state of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

Mr. DOLE. Mr. President, I understand that there are two amendments on this side—again I am just passing through. I am not the manager. But there are members of the Appropriations Committee here. I will let Senator DOMENICI do this. These two have been cleared.

AMENDMENT NO. 1415

Mr. DOMENICI. Mr. President, I send to the desk an amendment in behalf of Senator D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator withhold for just a minute.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI for Mr. D'AMATO proposes an amendment numbered 1415.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 23, after line six insert the following:

"CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purpose of one MH-60G helicopter."

Mr. D'AMATO. My amendment, totalling almost $10.1 million, funds a replacement for the MH60G Pave Hawk lost by the 106th Air Rescue Group, New York Air National Guard, on October 30 while attempting to rescue a lone sailor caught in 25-foot waves whipped up by the freak storm that battered the New England coast 3 weeks ago.

The helicopter reached the lone sailor, but was unable to winch him aboard due to the intensity of the storm. With fuel dangerously low, the helicopter dropped survival equipment and sped for home.

It never made it. The helicopter was unable to link up with the HC130 sent to refuel it due to winds gusting up to 70 mph. Sixty miles short of Long Island the helicopter ran out of fuel. The pilot managed to skillfully ditch the helicopter and get his men safely out, but tragically, rescue specialist T. Sgt. Arden "Rick" Smith became separated from his comrades and drifted away in the darkness. He was never found.

Mr. METZENBAUM. Will the Senator from New Mexico yield?

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

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

Mr. METZENBAUM. Objection.

Mr. CONRAD. If I might just ask for a unanimous-consent request on sponsors.

Mr. METZENBAUM. I withdraw the objection.

Mr. CONRAD. Mr. President, if I might just make a unanimous-consent request with respect to the Conrad amendment that was just adopted, showing as original cosponsors Senator CRAIG, of Idaho; Senator DASCHLE, of South Dakota; Senator BURNS, of Montana; Senator BAUCUS, of Montana; and Senator PRESSLER, of South Dakota. I ask unanimous consent they be shown as original cosponsors.

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

Mr. CONRAD. I thank the Chair. I yield the floor. I note the absence of a quorum.

Mr. DOMENICI. Mr. President, I believe we are ready to proceed. Will the Senator withhold?

Mr. CONRAD. I will be pleased to withhold.

Mr. DOMENICI. I have explained to Senator METZENBAUM this is an amendment that replaces an Air National Guard helicopter that was lost at sea.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1415) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of Senator BURNS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

The following is to be added in the appropriate place:

"( ) The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992.".

The PRESIDING OFFICER. Is there debate on the amendment?

Mr. METZENBAUM. Mr. President, would the Senator from New Mexico be good enough to explain what the amendment does?

Mr. DOMENICI. Would the clerk read the amendment? It is self-explanatory?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 1416.

( ) "The Secretary of the Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

Mr. DOLE. Mr. President, would the Senator yield?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I have to object to proceeding at this point in connection with this amendment until I have a chance to study it further. I am told that I already have a hold on the amendment.

Mr. DOLE. I did not note the Senator from Ohio objecting to any of the Democratic amendments. We put through five at once. He did not say a word. If he is going to stand there every night all night and object to every Republican amendment, there have not been too many of them cleared; in any event we are going to have a long evening.

We are going to play fair or we are not going to play at all.

Both of these amendments have been cleared by the managers, as had the five before. The Senator sat silent.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am not looking at these amendments as if they are Democratic or Republican amendments. I asked the manager of the bill whether the amendment had been cleared, whether those amendments had been cleared, and he said yes.

Mr. DOLE. So are these.

Mr. METZENBAUM. Apparently, I was just told by one of the staff people that I had a hold on this amendment. I did not know it. I do not know the reason why at this moment. But I would like to explore it.

I do not wish to keep the Senator from New Mexico from proceeding forward, and I just suggest that it be laid aside in order that I can check the facts. I certainly do not want to hold up the Senator from New Mexico nor the Senator from Kansas, nor anybody else. But I think every Senator has the right to know what we are adopting out here.

Mr. DOLE. He inquired about the helicopter amendment, which had been cleared. Now he has inquired about the second Republican amendments, which are Republican amendments. I did not hear him make any inquiry about the previous five amendments.

Mr. METZENBAUM. I think the Senator from Kansas is a little political, a little more political than the Senator from Ohio.

I did not know whether the first five were democratic or Republican amendments. The Senator from Ohio did not look at the amendments and did not know whether they were Democratic or Republican.

I will try to work it out with my colleague from New Mexico. I do not think it is a major problem.

I am afraid the Senator from Kansas is looking to be political, probably, and I am not.

Mr. DOMENICI. Mr. President, I assume that we want to let the Senate proceed. I want to make this comment.

This amendment also, so the RECORD will be complete, was a subject matter that was within the jurisdiction of the distinguished chairman of his Subcommittee on Interior. So we did not just get a flimsy type of perusal. We got one from very able committee chairman.

Mr. METZENBAUM. I would just suggest we not make a cause celebre out of the matter.

I ask the Senator from New Mexico to let us lay this matter aside temporarily so the Senate can proceed with other business, and we can take a look at it to see if we can work it out.

Mr. DOMENICI. Mr. President, I ask the the last amendment which I submitted in behalf of Senator BURNS be temporarily set aside.

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

AMENDMENTS NO. 1417, 1418, 1419, AND 1420 EN BLOC

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. GORE and an amendment by Mr. BRADLEY and an amendment by Mr. LEAHY and an amendment by Mr. STEVENS. I ask unanimous consent—may I have the attention of the Senator from Ohio? I send these amendments up en bloc.

I ask unanimous consent that they be considered en bloc; agreed to en bloc; and that the motion to reconsider be laid on the table. They have been cleared on the other side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Numbered 1417 1418, 1419, and 1420) were considered and agreed to en bloc as follows:

AMENDMENT NO. 1417

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

Mr. GORE. Mr. President, Narasimhan Sundararaman is an atmospheric scientist who is currently serving as the Secretary of the Intergovernmental Panel on Climate Change [IPCC], an organization chartered by the World Meteorological Organization [WMO] and the United Nations Environment Program [UNEP]. In this capacity and in his earlier work at the WMO, Dr. Sundararaman has been instrumental in advancing the science of climate change and ozone depletion and in informing policymakers of the important implications of the scientific findings. His contributions have truly been invaluable and have won for him the respect and admiration not only of his colleagues here at

home but of scientists and policymakers from around the world.

Dr. Sundararaman began his tenure at the WMO on January 27, 1984. He assumed that position while on a separation transfer from the Federal Aviation Administration. An extension of 5 years to the transfer was granted by the FAA and, in light of his exemplary service, an additional extension for a period of 3 years was granted by the Secretary of State. The 8-year period comes to an end on January 26, 1991, and it is my understanding that there is no opportunity for further extension under Office of Personnel Management regulations.

The amendment that I propose would therefore provide that, at the discretion of the Secretary of State, Dr. Sundararaman may retain his position at the IPCC for a maximum of 3 additional years.

Mr. President, this additional extension of Dr. Sundararaman's service is crucial. The world community is currently engaged in negotiating an international convention on the emission of greenhouse gases. The issues involved in these talks are, of course, extremely complicated, and Dr. Sundararaman's input has been invaluable to our representatives as well as those of the other nations engaging in this endeavor. His loss at this time would be sorely felt, indeed.

AMENDMENT NO. 1418

(Purpose: To limit appropriations for the Buffalo Bill dam project to authorized amounts)

On page 22, line 5, before the period, insert ", subject to authorization".

AMENDMENT NO. 1419

(Purpose: To direct the Federal Highway Administration to allocate, to five Vermont municipalities, $990,000 earmarked in the Fiscal Year 1992 Transportation appropriations act for four bridge repair or replacement demonstration projects in those five municipalities)

At the appropriate place in the bill, insert:

"Unobligated funds in the amount of $990,000 authorized and appropriated under Public Law 102-143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the city of Barre for the Granite Street Bridge, $350,000 to the city of Montpelier for the Bailey Avenue Bridge, $90,000 to the town of Brandon for the replacement of the Dean Bridge, and $90,000 for the town of Williston and $110,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with sections 101, 106, 110, and 120 of title 23 of the United States Code.".

AMENDMENT NO. 1420

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES.

"(a) The caption for Section 713 of title 18, United States Code, is amended to read as follows:

"§713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives"

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a face impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, Knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon compliant by any authorized representative of any branch, department or agency of the United States."

(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

Mr. STEVENS. Mr. President, the United States District Court for the District of Alaska recently approved a judicial settlement which resolves claims by the Federal Government and the State of Alaska arising from the tragic oilspill by the *Exxon Valdez* in Prince William Sound, AK, in March of 1989. This amendment is necessary to clarify existing law and ensure that the $50 million received as restitution under the plea agreement and the Federal portion of the moneys received for future restoration costs under the agreement and consent decree can be spent as intended without further appropriation by Congress.

This amendment does not affect moneys received by the State of Alaska under these agreements or moneys received by the Federal Government for reimbursement of cleanup and response costs.

This amendment only addresses the disposition of the $50 million restitution payment to the United States under the plea agreement, and those amounts that the State of Alaska trustees and the Federal trustees agree should be transferred to the United States out of the joint fund established by the agreement and consent decree for future costs of restoration, replacement, or acquisition of equivalent natural resources.

In addition, this amendment is consistent with the terms of the plea agreement and the agreement and consent decree.

Mr. BYRD. May I say to my friend from Ohio, the way we attempt to work these out is that the amendments they have, they think may be cleared on their side, they are run by my staff people. My staff people work with the floor staff people. If there are Senators who have some problems with those amendments, then they are not given clearance.

But once we feel that they have been cleared on our side, we feel they can call them up, and ask that they be considered en bloc. And it works the same in reverse. We have amendments, and if we clear them over there, then I offer those amendments, and ask that they be considered en bloc. It saves the time of the Senate.

Mr. METZENBAUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. Are these amendments that are being cleared, are these matters of substance or are these matters of minor detail? Are they matters of clarification? Could he give us some idea what he is going through so rapidly?

The Senator from West Virginia knows that when he was the leader of this body, at night I stood here and tried to find out what amendments were. That is all I am trying to find out now, what the amendments are.

Mr. BYRD. Senator, I have been in the Senate now for 33 years.

Mr. METZENBAUM. I have only been here 17 years.

Mr. BYRD. I have been here 33 years. I do not think I have ever had my integrity challenged.

Mr. METZENBAUM. I am not doing that.

Mr. BYRD. If the Senator will let me finish, he may speak and I will listen to him.

The PRESIDING OFFICER. The Senators will be advised they must address one another through the Chair.

Mr. BYRD. I have been here 33 years. I have been the majority leader, I have been the minority leader, I have been the majority leader again. I am now the President pro tempore, and chairman of the Appropriations Committee. I do not think I have ever been challenged as to my integrity.

I make mistakes like others do. But I am just as solicitous of the rights of my colleagues as the Senator from Ohio, and I am just as solicitous of the rights of my colleagues on their side of the aisle as any Senator over there can be.

I would be very careful if I thought that I was slipping through an amendment that the Senator from Ohio would object to or that any Senator would object to, because I know that sooner or later would come back to haunt me.

I do not think that anyone has ever found me getting an amendment through, saying that these have been agreed to, and questioning me as to whether or not they were checked on the telephone, or how were these checked out, how was this done.

Obviously, I do not know everything that is in every amendment that I send up, but I do trust my staff. When my staff runs it by the subcommittee, this is an appropriations bill, and the authorizing committee, that we have one of the finest staffs that ever was put together on this Hill. And they work with the floor staff. And that floor staff on the Democratic side works with that floor staff on the Republican side. If they ever catch me trying to slip something through here, then I will be the first to stand up here in the Senate and say I apologize.

But we cannot move forward on this bill if these little itsy-bitsy, teensy-weensy amendments—I will categorize them that way, because they are certainly not controversial or big amendments or they will not be sent to the desk.

If it is ever found out that ROBERT BYRD has entered into some kind of a cabal here, whereby they are going to slip a lot of controversial amendments through which the Senator from Ohio would object to, then I daresay that the members of the Democratic caucus will not let me continue to be President pro tempore of the Senate or chairman of the Appropriations Committee.

We do our level best. He has the right to ask these questions, I say to the Senator. But I am trying to assure him that he can go back to his office, and he can be just as safe in his mind and his heart, and as assured that things are being done right. If he finds that something went through tomorrow, I will be the first to come here to the floor, and ask that that action be vitiated. Let us do it over again.

So I will do everything I can to protect the Senator. But if we are going to be asked this question every time we send up a batch of amendments that have been cleared, we will not get out work done here. Obviously, I cannot answer the question as to what every amendment does. But I trust my staff. I trust the staff over here.

I said I would listen to the Senator.

Mr. METZENBAUM. I will not take long. I never question the integrity of the Senator from West Virginia nor the integrity of any Member of this body.

I have taken issue with the Senator from West Virginia, as he has taken issue with me on certain issues. That is doing his job, and I do mine. I did not find it inappropriate to find out what an amendment contains when it is coming before this body. You have answered my question. I asked you are these substantive, and you told me each teensy-weensy——

Mr. BYRD. The Senator will address another Senator in the third person.

Mr. METZENBAUM. I would be very happy to talk to the President pro tempore and can be certain that my friend from West Virginia will hear me, if that makes him feel more comfortable.

But the fact is, I do not question the integrity of anybody around here. I never have. All I thought is that I, as a Senator, had a right to know what was in amendments.

Since the Senator from West Virginia has assured the Senator from Ohio that these are—I forget his words, but something like teeny-weeny, itsy-bitsy amendments. If that is what they are, that is fine. But I did not find anything inappropriate about any Member of this body trying to find out what is being voted upon, and I do not intend to refrain from trying to find out today, tomorrow, or any other day in the Senate what is being voted on.

The Senator from West Virginia, to my knowledge, has never done anything to violate or to in any way cause anybody to question his integrity. And I do not.

But I do not see anything wrong with Senators knowing what is being passed. Because a lot of things have been passed in the U.S. Senate—not in this matter—but a lot of things have been passed that Senators woke up the next day, next week, next month, next year and found it had been passed, and they did not know it. So I have no objections, but I do not question the Senator's integrity. I do not think it is inappropriate to find out what the amendments are.

Mr. BYRD. Mr. President, if the Senator from Ohio will let me say this. It is not inappropriate, Senator. I did not say it was inappropriate. I simply said I was trying to assure the Senator——

Mr. METZENBAUM. And I am assured.

Mr. BYRD. That we are going to try to do everything right here. If there is a mistake made, I will be the first to try to correct it.

Mr. LEAHY. Mr. President, if I might, I will take only a moment, if I could have the attention of the Senator from West Virginia.

I know how difficult it is to be chairman of a complex piece of legislation. About a year ago, we passed the 5-year farm bill. I was the floor manager of that legislation. That bill had the distinction of being the longest and most complex piece of Senate legislation ever passed in history. It had the most words and was, in that regard, the longest one. We also passed it in the least amount of time.

There were evenings—and the Senator from West Virginia was here, and the Senator from Ohio and the Senator from New Mexico—when the distinguished Senator from Indiana [Mr. LUGAR] and I, would be here with a stack of amendments. I am not exaggerating, literally a stack a foot high. Those are highly complex things. We had to ask Senators on both sides of the aisle to trust that we had cleared the amendments. And we had.

By the time we got to conference, we felt it was our obligation as managers to completely clear up any question, to the satisfaction of the people asking the questions, or we would not have taken the bill to conference.

The point I make is this—any manager of any bill has a difficult time. Whomever is the manager of the Democratic side, or Republican side, is very careful to check these amendments. If we do not let them check the amendments, we do not let them clear the amendments, and then, we are going to be here singing Christmas carols before this bill gets done.

That is all I have to say, Mr. President.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

There has to be a high degree of mutual trust here in this body for us to get our work done. As far as I am concerned, there is that degree of trust.

I also will say that the distinguished Senator from Ohio [Mr. METZENBAUM] is right in that things can be done sometimes in haste, or when questions are not asked, and with everyone acting in good faith, mistakes can be made. I do not have any fault with that.

I ask unanimous consent that the action on the Daschle amendment 1412 be vitiated.

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

Mr. BYRD. Mr. NUNN had indicated that he had an amendment he wished to call up.

AMENDMENT NO. 1416

Mr. DOMENICI. Mr. President, is not the pending business now the Burns amendment, which I had heretofore sent to the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. There is no longer any objection, as I understand it.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 1416) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1421

(Purpose: To clarify existing legal authority to deposit and expend funds received for restitution under the Plea Agreement and future restoration under the Agreement and Consent Decree arising out of the settlement of Federal claims resulting from the discharge of oil by the T/V *Exxon Valdez* on March 23-24, 1989)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS, which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. STEVENS, proposes an amendment numbered 1421.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the resolution insert the following new section:

"SEC. . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91-082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

Mr. HATFIELD. Mr. President, this amendment is relating to the *Valdez* oil spill, and I ask now that it be agreed to.

Mr. BYRD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that Senators would be here to call up their amendments. I discussed with Senator NUNN a little earlier an amendment or two that he had. I urged him to call it up soon. I hope he has not grown weary of listening to the recent colloquy and left the floor.

Mr. President, after 8 o'clock I am going to start moving to table amendments that are legislative in nature and not germane.

And at some point, I will move that the bill be read the third time, and ask for the yeas and nays on that motion, and if the Senate wants to continue to offer amendments, they can vote my motion down. I do not relish saying these things, but because we are in an extenuating situation with Thanksgiving coming up and the hoped-for final adjournment being an objective of almost all Senators, I feel that it is necessary if we are going to get a bill to attempt to get the votes.

After 8 o'clock, I will have to start moving to table amendments that are legislative in nature and constitute legislation on the bill and not germane.

Mr. HATFIELD. Why wait until 8 o'clock?

Mr. BYRD. The question has been asked me, "Why wait until 8 o'clock?" I feel I should give some notice. It is a rather radical action on the part of the chairman to begin to table all amendments, but I think I might be justified in this situation.

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

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE SENATE SHOULD REJECT LAWRENCE LINDSEY'S NOMINATION TO BE A MEMBER OF THE FEDERAL RESERVE BOARD OF GOVERNORS

Mr. SANFORD. Mr. President, I rise to express my strong opposition to the nomination of Lawrence Lindsey to be a member of the Federal Reserve Board of Governors.

When considering nominations, particularly those for positions within the Cabinet or posts in the administration, I generally try to give the President the benefit of the doubt. It is his administration and he is generally entitled to have his choice of who is to serve in his administration. However, the nomination before the Senate today is not for someone to serve in the Bush cabinet; it is for a position on the independent Federal Reserve Board of Governors, the organization principally responsible for determining and implementing monetary policy for the country. Given the economic crisis currently plaguing the country, the importance of this position is magnified. It is the Senate's obligation to ensure that we are placing a well-qualified, independent, capable person on this key policymaking board.

OVERREPRESENTATION OF THE FIRST FEDERAL RESERVE DISTRICT

In examining Lawrence Lindsey's qualifications for this post, I started by looking at the Federal Reserve Act itself and the terms set forth in the statute for those who are nominated to fill these key positions. On this issue, I think the statute is clear and should serve as a guiding principle for the Senate. The statute states:

In selecting the members of the Board, *not more than one of whom shall be selected from any one Federal Reserve District*, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. (12 U.S.C. 241, emphasis added.)

I believe Mr. Lindsey's nomination violates the clear prohibition in the statute against more than one nominee from a given district. A fair reading of Mr. Lindsey's background, education, and work experience suggests quite clearly that he is from the First Federal District. This district includes the State of Maine, where Mr. Lindsey spent 4 years attending college, and the State of Massachusetts, where Mr. Lindsey has spent most of his professional life. He attended graduate school for his master's degree and Ph.D. in Massachusetts, and went on to spend the next 4 years teaching in Massachusetts.

Mr. Lindsey could quite appropriately serve as a nominee from the First Federal Reserve District. However, if the President had nominated him for that seat, he would have directly violated the clear prohibition in the statute against appointing more

than one member to the Board from a given district, since the Federal Reserve Board already includes a member, Mr. John LaWare, from the Frist Federal Reserve District.

NOT A FAIR REPRESENTATIVE OF THE FIFTH DISTRICT

So instead of selecting from the many, many people who live, work and have been broadly engaged in the economic life of North Carolina, South Carolina, Maryland, or Virginia, the President selected Larry Lindsey as his nominee and contends that he meets the terms of the status simply because he has lived in a suburb of the District of Columbia while working for the last 3 years for the White House. The President has totally distorted the clear meaning of the statute. Mr. President, this is not sufficient and it is certainly unfair to the people of the South. The South is considered a major region within the United States, and rightfully so. The South has economic characteristics that are unique. It is outrageously unfair that the statute that ensures that our unique, regional needs will be fairly represented on the Board that determines our economic future is being blatantly violated.

The Federal Reserve Act is not a mere residency statute and the President should not be allowed to twist it into one. It does not require a nominee to have lived a certain amount of years in the district they would represent like a voting statute does. Instead, the statute calls for fair representation of the financial, agricultural, industrial and commerical interests of the district. With all due respect, Mr. President, Larry Lindsey could not possibly provide such representation because he has never engaged in the economic life of North Carolina, South Carolina, Virginia, or Maryland. Sure, he has technically lived in Virginia while working in the District of Columbia, but he has not been spending those years worrying particularly about the economic problems of Virginia, or running a business or a bank in Virginia or interacting with businessmen or farmers in Virginia. He has simply lived there while working on national policy issues for the White House. That is simply not sufficient to meet the terms of the statute.

Indeed, Mr. Lindsey was asked at his confirmation hearing what economic activity he has engaged in in the Fifth Federal Reserve District other than living in a D.C. suburb, and his answer was none.

Mr. President, I do not believe that the requirement for fair representation of the financial, agricultural, industrial, or commerical interests of the District is one which the Senate should ignore. Indeed, I believe the Congress, in designing the Federal Reserve System was appropriately mindful of the need to have representation from a number of regions and interests in the country. The clear rationale for the requirement is to ensure that views of what is going on in the economic life of one part of the country do not dominate the Board. Yet, Mr. Lindsey does not and cannot bring any such variety to the Board. He has no independent contacts in the District that would allow him to get a true feeling for what is really going on in the economic life of the Fifth Federal Reserve District.

LACK OF BOARD EXPERIENCE

Again, Mr. Lindsey was specifically asked at his confirmation who he would turn to if he wanted to get a sense of what was really going on in the private sector and in the business community and his response was "Well, I think that I would call on academic economist friends of mine who have worked for business organizations. The Conference Board for example." As my colleagues know well, the Conference Board is a business-oriented economic analysis group headquarted in New York. If that is the closest connection Mr. Lindsey has to the economic life in North Carolina or South Carolina, it is surely an indication that he is not adequately familiar with the agricultural or industrial interests of this region.

Moreover, I find his choice to contact academic economists first somewhat troubling. I speak without prejudice. I spent much time in the academic world. But at a time when the Federal Reserve needs to be in close touch with what is truly going on in the economy and the lives of workers, business people, and the unemployed across the region, I find Mr. Lindsey's response more than inadequate; it is quite disturbing.

IMPORTANCE OF GEOGRAPHIC DIVERSITY AND "REAL" EXPERIENCE

I might note, Mr. President, that the requirement that Federal Reserve Board members adequately reflect the economic life of their district has been fairly carefully adhered to over the past 10 to 15 years. Indeed, one has to go back to 1978 to find a nominee who had as little connection to the district from which he or she was nominated as Mr. Lindsey does. As a matter of fact, Senator GARN, the distinguished ranking member noted in the committee mark up on Mr. Lindsey's nomination, that he had raised the same objection to a nominee to the Federal Reserve Board that I am raising on the floor now. Senator GARN's comments during the Banking Committee mark up were, "Mr. Chairman, may I say to the Senator from North Carolina that I understand his opposition on the basis of geography. If he had been here in the late 1970's, he would have heard virtually the same speech from this Senator on a nominee of the Carter Administration." As I said during the committee's mark up, had I been here then, I would have supported him in that objection. The requirements in the Federal Reserve Act should not be treated so lightly.

In addition, in a hearing held in the Banking Committee just last week, former vice chairman of the Federal Reserve Board, Preston Martin, began his testimony with advice to the committee regarding their role in reviewing appointments to the Board itself. His statement is as follows:

> I appreciate academic credentials for Board membership. However, my 4 years on the Federal Board convinces me that it is clearly in the public interest to confirm board members who have a variety of "real world" experience, experience in the business arena, the financial areas, and time spent as regulators: all are useful at the Board, even indispensable.

Martin went on to impress upon the committee the importance of adhering to the statute in the Federal Reserve Act which guarantees fair regional representation on the Board. Again, I am quoting directly from Mr. Martin's testimony:

> A diversity of geographic backgrounds is a second criterion. The United States has now endured the increased impact of regional business cycles which have been notable: first the middlewestern Rust Belt, then the farm States' crisis, and then reversal of the Massachusetts Miracle all over New England. Today greater New York and its environs are suffering, and the growth rate in once booming California has yielded to normalcy, just ordinary growth. I respectfully recommend that this committee return to a criterion of the Federal Reserve Act which mandates geographic diversification of the Board membership itself, not just among the Fed bank presidents.

In addition to the concerns I have noted about Mr. Lindsey's failure to meet the clear requirements set forth in the Federal Reserve Act, I also am concerned about his independence on the Board. The Federal Reserve Board was set up to be insulated from the political process. Most positions on the Board were established as 14-year terms, some of the longest of any such positions requiring Senate confirmation. The decision to grant lengthy terms to Board members was clearly intended to give them a good deal of independence from the White House and the political pressures of election cycles. With Mr. Lindsey's nomination, I am concerned that we are not getting a nominee who will be independent of the White House. The only time Mr. Lindsey has spent in this region has been spent working for the White House. Given that close connection to this administration, I am concerned about how willing he will be to make decisions that are not in complete accord with the administration's views. In addition, Mr. Lindsey lacks the real world experience that Mr. Martin referred to as indispensable to the Federal Reserve Board.

NARROW ECONOMIC VIEWS

Finally, I am concerned over the appointment of Mr. Lindsey to the Board of Governors because of his views on

the economy and the relationship between tax policy and monetary policy. Mr. Lindsey wrote a book just last year entitled "The Growth Experiment," in which he makes a number of disturbing claims. He is a strong proponent of supply side economics and states that "the Reagan tax cuts contributed only trivially to the booming deficits of the 1980's." Mr. Lindsey also asserts that "The country has exchanged economic peril for economic prosperity * * *. Those days [the late 1970's] of constant crisis are gone, largely because the large tax rate cuts for upper income and upper middle income taxpayers restored the incentives that drive the American economy." Mr. President, I am disturbed that a man possessing the academic credentials of Mr. Lindsey can make these statements with a clear conscience. I can only think that Mr. Lindsey's lack of personal experience in the real world and his reliance on academic economist friends have prevented him from grasping a true sense of the American economy and how it relates to real people. I should think my colleagues would be very reluctant to approve a nominee to the Federal Reserve Board who does not believe that our current economic troubles are not substantially if not completely, due to excesses of the 1980's, and more specifically, Reaganomics. If this was not clear last spring, it is abundantly clear today.

I am also concerned that Mr. Lindsey believes that tax cuts, more than monetary policy, have been responsible for bringing inflation down. At great economic and social cost, the Federal Reserve succeeded in reducing inflation from double digit rates in 1981 to a range of 3 to 4 percent in subsequent years by raising and holding up interest rates long enough to induce a major recession. Despite Mr. Lindsey's claims to the contrary, interest rates finally fell because the Federal Reserve ultimately responded to the serious deterioration of the economy and the sharply lower inflation rates. Inflation slowed because the economy slowed first, making it costly for workers and firms to continue raising wages and prices rapidly. Understanding the effects of monetary policy should be fundamental to a Board member. At a time when fiscal policy seems to be unable to revive the economy, we are relying on monetary policymakers to find a solution.

Given the debilitated state of the Nation's economy, the decisions made by the Federal Reserve are monumental. Misjudgments by the Fed could prevent much needed economic improvement. It is crucial that an appointee to the Federal Reserve possess a truly balanced understanding of the role and the power of monetary policy.

CONCLUSION

In conclusion, Mr. President, I think Mr. Lindsey lacks the real life experience associated with financial, industrial, agricultural, and commercial interests in general to make the crucial decisions that will bring our economy out of jeopardy and put it on a realistic, not a theoretical, path of growth. One step to finding this realistic solution is having Federal Reserve Board members who properly represent the Federal Reserve districts from which they are nominated. I do not think that there can be any doubt that Mr. Lindsey's nomination clearly violates the Federal Reserve Act which was designed to give us balanced representation. His presence on the Federal Reserve Board would upset the balance of diversity on the Board and stifle the voice of economic indicators from a major region of the Nation. I think the people of the Fifth Federal Reserve District, the people of the South, deserve a representative who has been a participant and has been able to develop a clear understanding of their economic needs. Without such a representative, policy cannot be crafted that is responsive to the needs of the entire country, including the South. In short, Mr. Lindsey is not only not the best person for this position, he is not even qualified. Therefore, I have urged my colleagues to uphold the statutes in the Federal Reserve Act and reject this nomination.

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

Mr. SANFORD. Certainly.

Mr. SARBANES. Mr. President, I subscribe to the point of view which the Senator has advanced with respect to this nomination because it seems to me clear that it is not conforming certainly with the spirit of the Federal Reserve Act, because I think the residential requirement is not simply a technical requirement that someone come down to work in Washington, DC, from an academic appointment at Harvard and then live in Virginia or Maryland and that residence there constitutes meeting the geographic requirements that are contained in the Federal Reserve Act. I agree completely.

Let me ask the Senator. As I understand the point he is making, it is his view that the person taken from a Federal Reserve district should have some nexus with that district; in other words, he should have some feel and sense for the industrial and commercial and agriculture life of the Federal Reserve district from which he is being drawn and ostensibly would represent on the board of Federal Reserve. Is that correct?

Mr. SANFORD. The Senator is correct. In fact, the statute specifically requires that.

Mr. SARBANES. Mr. President, we have had this problem come up before, I must say, where they have taken someone who is a Washington hand and then they say, well, you know, a number of years ago he went to school in this Federal Reserve district or something and then they use that as the basis to try to put him on the board and meet the geographic requirement.

I do not think that geographic requirement is something to be ignored or laughed at or simply brushed off. I think it has meaning. I think it was developed on the basis of good rationale and that the Senate ought to hold to that rationale. It certainly is not happening in this instance for the reasons which the very able Senator from North Carolina has detailed so eloquently. I am pleased to join with him in the position that he has taken on this nomination.

Mr. SANFORD. Mr. President, I thank the Senator from Maryland. I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank my colleagues for expressing most forthrightly their sentiments on this. It has been my privilege to introduce this nominee on behalf of the President. I take issue with some of the conclusions that my distinguished colleagues from North Carolina and Maryland raised. But, nevertheless, I wish to thank them for allowing the nomination to go forward and to have the Senate work its will, presumably sometime tonight.

I had the pleasure of meeting with Dr. Lindsey on several occasions before his nomination came before the Senate Banking Committee and found him to be an exceptionally impressive individual. He has not only served as an economic advisor to two Presidents—I repeat, two Presidents—but he has taught at Harvard University, and has published numerous economic books and articles.

Dr. Lindsey has named several goals he wishes to achieve subject to his confirmation by the U.S. Senate and his eventual position as a board member of the Federal Reserve. Those goals include a growth oriented, noninflationary monetary policy, a regulatory position which would not impede credit conditions, reform of the Nation's financial system so that our banks can better compete internationally, and gradual reduction of inflation. These goals are laudable, and on track with the needs of our country's monetary policy.

Mr. President, I am pleased that Dr. Lindsey's nomination, in my judgment, enjoys bipartisan support in this Chamber. I think the President has made an excellent choice. I look forward to the Senate working its will on this nomination. I hope it will be favorable, because I think he will serve and discharge the duties as board member of the Federal Reserve with distinction and effectiveness.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

TECHNICAL CORRECTIONS AND CORRECTIONS TO ENROLLMENT OF CERTAIN APPROPRIATIONS ACTS

The Senate continued with the consideration of the joint resolution.

Mr. DOMENICI. Mr. President, I want to get back to the subject matter before us.

I do not choose to use much of the Senate's time in explaining why I will vote against this joint resolution. I did a bit of it awhile ago in some extraneous remarks regarding what this bill was not. I have prepared an analysis of the bill, and an analysis of what we have failed to do in the normal appropriations process for disaster relief which led us to a point where the House had to put money in the disaster relief account and declare it an emergency, and that started this bill.

I have attempted to analyze the measure as best I can and I want to repeat: The House—not the Senate, not the Appropriations Committee—decided that they were going to take some votes on some measures and matters that had great political appeal and put them in this bill because obviously many, many House Members would vote for it. One was WIC, one was some money for Head Start, and one was some immunization money. We had just funded them in the regular appropriations bill, but somebody decided that if we were having another appropriations bill run through, we would put them on it.

Frankly, in our debate in the Appropriations Committee, there was no one that really tried to take the position that those funding items were emergencies. They are not. And so what we are doing is putting them in the joint resolution without a true emergency situation and sending them to the President. If he declares them an emergency, we will spend the money. And everyone knows that the President will not do that, because it is not a true emergency.

But I also indicate in my statement how these programs have increased over the last 5 years and indeed over the last year, and they have been substantial increases. I mean a program like WIC in the last 5 years has just grown dramatically; in the last year it has grown as much as almost any other program around. And well it should. So has the immunization program that is in here, and so has Head Start. So I have that analyzed in detail, and it will be my justification and explanation for what this bill is, and what it is not.

Mr. President, I must rise in opposition to House Joint Resolution 157, a bill making so-called dire emergency supplemental appropriations for fiscal year 1992, which was reported by the Senate Appropriations Committee on November 15.

Mr. President, this is the last appropriations bill that the Congress is likely to consider this session.

I oppose this bill because, as I said during the full appropriations committee markup session, it is way beyond mischief. By that I mean that this bill take to new heights the fiscal games that the Congress likes to play, but in my opinion. It is so disingenuous that I cannot let it go unchallenged.

Mr. President, this bill is a sham. Plain and simply it is an attempt by the Congress to make everyone think that they have addressed a problem when all it has done is found a mischievous way to avoid making difficult decisions on priorities for Federal spending.

It is way beyond mischief for the Congress to give the impression to the victims of natural disasters that they will receive relief under this bill when in fact they probably will not.

The bill is simply another attempt by the majority party in Congress to get around the bipartisan budget agreement, and to embarrass the President with charges that he is ignoring the domestic agenda when he does not declare every item of spending in this bill as an emergency requirement.

"DIRE EMERGENCY" ITEMS

Mr. President, before the President has signed the last of the 13 regular appropriations bills, the Congress is passing a $14.2 billion so-called "dire emergency" supplemental appropriations bill for fiscal year 1992.

The bill includes $10.1 billion for Operation Desert Shield/Desert Storm, which is funded out of allied contributions to the defense cooperation account or the Persian Gulf regional defense fund, and not from taxpayer funds.

Excluding the Operation Desert Shield/Desert Storm funding, and the $151 million in FEMA disaster assistance that the President declared "emergency requirements" back in July, which will not be charged against the discretionary spending caps in the bipartisan budget agreement, the Senate is today voting on adding $4.0 billion in budget authority and $2.85 billion in outlays to Federal spending.

Without the designation of these funds as "emergency requirements" by the President, making this disaster relief and other spending available would force a sequester of all domestic discretionary spending by between 1 and 2 percent across-the-board.

This bill again shows that Congress will not make the tough decisions. Rather, it specifies in this bill that these funds will be spent only when the President declares them as "emergency requirements," and therefore, outside the fiscal discipline of the fiscal year 1992 spending caps.

So this is the choice Congress is forcing on the President—he can either declare these funds "emergency requirements" when arguably many of them are not, and break the budget agreement, or, he can refuse to make that designation and be charged as insensitive to the plight of disaster victims and the domestic economy overall.

So I would ask my colleagues where is the lack of leadership in this country?

The Federal Government appropriately has in place programs that are available to assist the victims of natural disasters. It has been Federal policy to say that the Government is ready to help those who have suffered serious losses through no fault of their own.

The problem is that the Congress has not adequately funded the major domestic disaster relief account, the Federal Emergency Management Agency disaster relief account, for the past few years.

In each of fiscal year 1989, fiscal year 1990, and fiscal year 1991, congressional appropriations were significantly below the budget request, totaling $542 million less than was requested by the President over the 3 years. It is this amount that the administration has not designated as "emergency requirements" for purposes of this bill.

In the fiscal year 1992 VA-HUD independent agencies appropriations bill signed into law October 28, the bill accepted the President's original budget request of $184.5 million, reflecting Congress' growing realization that unmet disaster assistance needs were building up. The Congress did not, however, approve an additional $90 million requested by the President in June to meet revised estimates of fiscal year 1992 disaster needs.

Now, the Congress is trying to make up for this shortfall in funding in this appropriations bill and not be charged for that spending.

If there is a level of disasters above and beyond what we historically have experienced and responsibly budgeted for, the bipartisan budget agreement was designed to accommodate the costs associated with those disasters under the "emergency requirement" provisions.

To underfund the disaster assistance programs in order to fund lower priority programs, and then to expect the budget agreement to bail us out of that situation is, again, "way beyond mischief."

Mr. President, there is other spending in this bill which the Congress also seeks to exempt from the discipline of the budget agreement. The bill includes $1.75 billion for crop loss assistance. It is my impression that the President and Secretary of Agriculture have done their best with existing authorities and resources to address agricultural disaster needs in areas experiencing problems due to severe weather conditions.

The bill also seeks to declare "emergency requirements" for three programs, which have broad congressional support—the Women, Infants, and Children [WIC] Feeding Program, the Head Start program, and the Childhood Immunization Program.

I doubt if there is one member in this body who is not familiar with the good works done through these three programs.

It is for this very reason that:

The WIC Program increases by $250 million, or 10.6 percent, from fiscal year 1991 to fiscal year 1992. In fact, the WIC Program has increased by $797.6 million, or 44.2 percent, since fiscal year 1988;

The Head Start Program increases by $250 million, or 12.8 percent, from fiscal 1991 to fiscal year 1992, and by $995.7 million, or 82.5 percent, since fiscal year 1988; and

The childhood immunization Program increases by $66.9 million, or 36.7 percent, from fiscal year 1991 to fiscal year 1992, and by $150.7 million, or 153.6 percent, since fiscal year 1988.

Over the past 5 years, in the regular annual appropriations bills, the Congress has approved significant increases for these important programs. It has even done so in the first 2 years of the bipartisan budget agreement when caps were placed on spending.

But that is not enough. Congress now attempts to add another $1.39 billion to these three programs claiming there is some new emergency associated with them, when in fact, there is not.

Thus, Mr. President, even though this bill does not technically violate the Budget Enforcement Act, I must vote against this bill because it seeks to stretch the reasonable definition of "emergency requirements" under the bipartisan budget agreement and the Budget Enforcement Act of 1990. In passing this bill, the Senate will in effect be saying that it cannot uphold the intent of the budget agreement and set domestic priorities within that agreement.

FISCAL YEAR 1992 APPROPRIATIONS WRAP UP

Finally, Mr. President, we are almost to the end of congressional action on the fiscal year 1992 spending bills. With the exception of the foreign operations bill, which we will consider early next year, all of the regular fiscal year 1992 appropriations bills are about to be completed.

Very little has been said about Congress' record in abiding by the budget agreement. As is usually the case, Congress gets a mixed review.

On the "paygo" front, the Congress ultimately enacted an unemployment compensation bill that will pay for itself over the 5-year period. Yet, it could not resist making a deal to enact another expensive unemployment bill as part of the agreement to complete action on these much anticipated benefits.

Also on the "paygo" front, we have authorizing committees seeking to turn various programs into entitlement programs, but to avoid paying for them, the effective date of this entitlement spending is beyond the horizon of the budget agreement. Again, Congress seeks to spend more money on programs when it doesn't have the money to pay for them.

On the appropriations front, I must commend the distinguished chairman of the Senate Appropriations Committee for his commitment to upholding the bipartisan budget agreement. He has done his best under very trying circumstances.

It appears that the enactment of the regular appropriations bills will be within the spending caps on discretionary spending.

In enacting the bills, however, we have had to delay the obligation of funding totaling $4.1 billion in budget authority until late in the fiscal year to minimize the near-term outlays associated with our spending decisions. In so doing, we are putting increased pressure on the spending caps next year and are limiting our flexibility in making spending choices next year.

To live within the spending caps this year, the Congress has also made promises of funding by approving advanced appropriations for fiscal year 1993, and assuming that Department of Defense funding will be used to offset funding requirements of programs through domestic agencies like the Coast Guard, National Science Foundation, the National Aeronautics and Space Administration, and others.

Throughout it all, the spending caps have not been so tight to preclude the funding of special projects in many bills—both the domestic bills and the defense bill.

Mr. President, I regret that final action on the fiscal year 1992 appropriations bills this year finds this Senator opposing a bill reported by the Senate Appropriations Committee.

I have tried, as a member of that committee, to support the distinguished chairman and ranking member in their efforts to implement the budget agreement.

But in the case of this bill, I must strongly oppose the Congress' latest attempt to have it all without paying for it, and to use this as an excuse to attack the President on the domestic agenda.

I oppose this bill, and I say to my colleagues that if you are serious about upholding the bipartisan budget agreement and the fiscal discipline we set out in that agreement, then you will vote to defeat this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, several times today, I have attempted to get a unanimous consent concerning a list of amendments that we might attempt to—that we might, hopefully, limit the amendments to those on the list. I failed. There certainly, with 60 amendments, must be at least 30 Senators who have those amendments. So I am sure that I am not speaking in a vacuum tonight. Senators, I am sure, or their staffs, are watching television.

It is now 20 minutes until 8. If, within 10 minutes, an amendment is not offered, I am going to move to go to third reading, and I will ask for the yeas and nays on that motion.

Mr. DOLE. Why wait?

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. BYRD. No. No. I say within 10 minutes. I say, within 10 minutes, if no amendment is offered, I will move to go to third reading, and I will then ask for the yeas and nays.

I suggest the absence of a quorum.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called 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.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2521, the Defense appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $497 million and under its 602(b) outlay allocation by $32 million.

I must compliment the distinguished manager of the bill, Senator INOUYE, and the distinguished ranking member of the Defense Appropriations Subcommittee, Senator STEVENS for their excellent work in attempting to bring Defense spending into conformity with the threats to U.S. security.

This bill complies with the ceilings on Defense spending set forth in the budget agreement over 1 year ago. However, in light of changing fiscal and international conditions, it is becoming increasingly clear that funding Defense activities up to the legally allowed limits no longer makes sense. I look forward to working with the distinguished chairman and ranking member in the months ahead to ensure that our budgetary priorities properly reflect to problems this Nation needs to address.

Mr. President, I ask unanimous consent a scoring table be printed in the RECORD.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2521

H.R. 2521

DEFENSE SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
New budget authority and outlays	269.9	176.5
Enacted to date	0	98.9
Adjustment to conform mandatory programs to resolution assumptions		0
Scorekeeping adjustments	0	0

DEFENSE SUBCOMMITTEE—SPENDING TOTALS—Continued

[In billions of dollars]

Bill summary	Budget authority	Outlays
Bill total	269.9	275.4
Senate 602(b) allocation	270.4	275.4
Total difference	−.5	
Discretionary:		
Domestic		
Senate 602(b)	0	0
Difference		
International	0	
Senate 602(b)	0	
Difference	0	

DEFENSE SUBCOMMITTEE—SPENDING TOTALS—Continued

[In billions of dollars]

Bill summary	Budget authority	Outlays
Defense	269.8	275.2
Senate 602(b)	270.2	275.2
Difference	−.4	
Total discretionary spending	269.7	275.2
Mandatory spending	2	2
Mandatory allocation	2	2
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	−1.0	−1.3
House-passed bill	7	
Senate-passed bill	−.3	.2

DEFENSE 1992 APPROPRIATIONS

[In thousands of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary spending:										
Domestic:										
New spending in bill	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
602 (b) allocation	NA	NA	0	0	0	0	0	0	0	0
Above/below (+/−) allocation	NA	NA	5,000	1,250	0	−775	49,500	48,725	−74,780	−3,421
International:										
New spending in bill	0	0	0	0	0	0	0	0	0	3,416
Outlays prior	0	0	0	0	0	0	0	0	0	0
Supplementals (Public Law 102–27)	0	0	0	0	0	0	0	0	0	0
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0	0	0	3,416
602(b) allocation	NA	NA	0	0	0	0	0	0	0	4,000
Above/below (+/−) allocation	NA	NA	0	0	0	0	0	0	0	−584
Defense:										
New spending in bill	270,781,222	177,644,351	270,396,692	176,324,193	270,243,247	176,352,343	270,044,147	176,106,562	269,821,920	176,327,947
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,396,692	275,190,123	270,243,247	275,218,273	270,044,147	274,972,492	269,821,920	275,193,877
602(b) allocation	NA	NA	270,454,000	275,355,000	270,244,000	275,222,000	270,244,000	275,222,000	270,244,000	275,222,000
Above/below (+/−) allocation	NA	NA	−57,308	−164,877	−753	−3,727	−199,853	−249,508	−422,080	−28,123
Total discretionary:										
New spending in bill	270,781,222	177,644,351	270,401,692	176,325,443	270,243,247	176,351,568	270,093,647	176,155,287	269,747,140	176,327,942
Outlays prior	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658	0	98,832,658
Supplementals (Public Law 102–27)	0	33,272	0	33,272	0	33,272	0	33,272	0	33,272
Scorekeeping/mandatory adjustments	0	0	0	0	0	0	0	0	0	0
Subtotal	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Mandatory spending:										
New spending in bill	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Permanent appropriations	0	0	0	0	0	0	0	0	0	0
Outlays prior	0	0	0	0	0	0	0	0	0	0
Subtotal mandatory	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100	164,100
Resolution scoring adjustments	−100	−100	−100	−100	−100	−100	−100	−100	−100	−100
Adjusted mandatory total	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Bill total:										
Discretionary	270,781,222	276,510,281	270,401,692	275,191,373	270,243,247	275,217,498	270,093,647	275,021,217	269,747,140	275,193,872
Adjusted mandatory	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000	164,000
Subtotal	270,945,222	276,674,281	270,565,692	275,355,373	270,407,247	275,381,498	270,257,647	275,185,217	269,911,240	275,357,972
602(b) allocation	NA	NA	270,618,000	275,519,000	270,408,000	275,386,000	270,408,000	275,386,000	270,408,000	275,390,000
Above/below (+/−) allocation	NA	NA	−52,303	−163,627	−753	−4,502	−150,353	−200,783	−496,760	−32,028
Discretionary total compared to:										
President's request	NA	NA	−379,530	−1,318,908	−537,975	−1,292,783	−687,575	−1,489,064	−1,034,082	−1,316,409
House-passed	379,530	1,318,908	NA	NA	−158,445	26,125	−308,045	−170,156	−654,552	2,499
Senate-passed	687,575	1,489,064	308,045	170,156	149,600	196,281	NA	NA	−346,507	172,655

Mr. BYRD. Mr. President, the Dire Emergency Supplemental Appropriations Act of 1992 passed by the House, provides $693 million in new budget authority for FEMA's disaster relief programs. Resources available for the current fiscal year were insufficient to meet the requirements of fiscal year 1991 and prior-year disaster declarations. FEMA has been unable to grant any assistance since May of this year.

Mr. President, I would like to enter into a colloquy with the distinguished Chairman of the Budget Committee, Senator SASSER, to discuss the importance of supplemental FEMA funding. Communities all across the country

have suffered as a result of the current fiscal shortfall, and it is important that we assure an adequate level of supplemental funding.

Mr. SASSER. I thank the Senator from West Virginia for his kind comments and his recognition of this important issue. The FEMA Disaster Relief Fund plays a crucial role in assisting State and local entities address damages caused by a natural disaster. FEMA has helped many communities in my State of Tennessee get back on their feet after unfortunate circumstances have occurred.

The nature of disaster activity is highly unpredictable and 1991 and past year disaster-related needs have consumed all available FEMA funds. Communities are in dire need of restoration of facilities destroyed or damaged by natural events. During visits to Tennessee I have surveyed several areas and facilities which have sustained considerable damage due to flooding and tornado activity. As Senator BYRD stated, many localities have been waiting long periods of time for aid.

For example, Hamilton County has been waiting since February of 1990 for FEMA funds. Torrential rains in a residential area of Chattanooga caused an embankment to slide, tearing out 6 feet of Crestone Circle Road. This important city road has remained closed for over 18 months.

A flood in Graysville, Rhea County, during the beginning of 1991, weakened the piers of the Graysville bridge. Sections at both ends of the bridge subsequently collapsed. Since this time citizens of the area have had to find alternative ways of crossing Roaring Creek.

And, in May of this year, severe rains and flooding damaged roads and bridges in nine Tennessee counties including: Cheatham, Dickson, Hardin, Hickman, Humphreys, Lawrence, Lewis, Perry and Wayne. All nine counties have been designated disaster areas by the President, yet no financial assistance has been forthcoming.

These three examples highlight the urgent need to assure that FEMA is adequately funded. We must move quickly to provide supplemental funding. As the central agency for emergency response activities, FEMA must have the fiscal means to address disaster needs in a timely fashion. I agree with the FEMA funding level contained in the Dire Emergency Supplemental Appropriations Act and I trust that once this bill is approved FEMA will move quickly on past claims.

Mr. BYRD. I would like to thank the Senator for his comments. I share his interest in assuring that those communities in need of aid will soon receive the necessary FEMA resources.

Mr. SASSER. I thank the distinguished chairman of the Appropriations Committee for his support.

Mr. BYRD. 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.

AMENDMENTS NOS. 1422, 1423, 1424, AND 1425

Mr. BYRD. Mr. President, I send to the desk amendments, one amendment by Messrs. COATS, RIEGLE, and LEVIN; one amendment by Mr. RIEGLE; and one amendment by Mr. DOLE.

I ask unanimous consent that they be considered and agreed to en bloc; that the motion to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (Nos. 1422, 1423, 1424 and 1425) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1422

(Purpose: To provide relief to farmers seeking low interest emergency loans)

At the end of page 20, insert the following: "CROP INSURANCE.—Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

COATS CROP INSURANCE WAIVER AMENDMENT

Mr. COATS. Mr. President, this summer, farmers throughout America and especially the Midwest once again have suffered crop losses due to drought.

In Indiana, many farmers and farm experts indicate that the losses from the drought of 1991 may equal or surpass the devastating drought of 1988. Agriculture economists, crop specialists, and other farm experts from Purdue University are estimating that when the crop is marketed that crop losses in Indiana might be as great as half a billion dollars. We know that row crop losses alone will probably be a minimum of $350 million. Other Midwestern States which make up the bulk of row-crop production in the United States have experienced similar losses.

However Mr. President, unlike the drought of 1988, even with the severity of the drought of 1991, the crop markets did not respond to the losses. Thus, not only have farmers seen less corn and soybeans in their combines, they also see substantially less dollars in their pockets. Farm economists at Purdue are estimating that with the drought of 1991 farm income in the State of Indiana may drop as much as 50 percent.

All of this falls on the shoulders of farmers already suffering under the weight of previous crop failures, skyrocketing interest rates and other factors beyond their control. Many farmers are left asking themselves how they can possibly make it through another year—how can they possibly pay off high interest loans and still have the cash flow to plant the 1992 crop, let alone clothe and feed their families.

Today I am introducing an amendment which will ease the burden on some American and Hoosier farmers which are facing the bleakest of times. The Crop Insurance Waiver Amendment increases the financing options for those farmers who have been severely hurt by the drought of 1991. Under current provisions for drought relief in the supplemental bill, all farmers will be forgiven of this requirement except for those bottom 2 or 3 percent who need help the most. Under current law, only farmers who meet the criterion and have crop insurance policies would be eligible for low-interest FMHA loans. This amendment, Mr. President, seeks to waive that crop insurance requirement and thus make low-interest loans available to all qualifying farmers.

This bill will not affect those farmers who currently hold crop insurance policies—they will still be reimbursed at their full guaranteed rate, and also be eligible for low-interest FMHA loans if they meet the loan requirements. Some of the requirements that farmers must meet include having a loss of at least 30 percent and not being able to obtain financing through normal commercial means. It will only open up opportunities for all farmers to apply for 4.5 percent loans from the Farmers Home Administration.

This bill is a responsible means of addressing the financial hardships that farmers will be facing in the fall of 1991, and the spring of 1992. It is by no means an answer to every problem they face. Even with this option, farmers will still struggle to make ends meet. But it will help meet some urgent needs in difficult times.

Mr. President, it is my hope that the Senate will support this amendment.

AMENDMENT NO. 1423

(Purpose: To provide emergency crop loss assistance to producers of fruits and vegetables who suffered damage due to fire blight).

At the appropriate place, insert the following new section:

SEC. . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

(Purpose: To provide assistance for rehabilitating trees).

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

AMENDMENT NO. 1425

On page 19, line 13, insert the following after the ".": "For the purposes of this Act,

the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

AMENDMENT NO. 1426

Mr. BYRD. Mr. President, I ask unanimous consent an amendment I send to the desk on behalf of Mr. PELL be agreed to, and the motion to reconsider be laid on the table.

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

The amendment (No. 1426) considered and agreed to is as follows:

AMENDMENT NO. 1426

On Page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

Mr. PELL. Mr. President, I am pleased to offer this amendment to the Dire Emergency Supplemental Appropriations Act which would provide emergency assistance to those shellfishermen in Narragansett Bay whose livelihoods were severely disrupted by Hurricane Bob.

When Hurricane Bob struck New England on August 19 of this year, extensive damage was done to the rich shellfish beds located in Narragansett Bay. The flooding and power failures caused by Hurricane Bob forced wastewater treatment plants to release tens of millions of gallons of raw, untreated sewage into Narragansett Bay, contaminating shellfish beds and closing all of Narragansett Bay to shellfishing for 9 days.

I am offering this amendment because no currently funded federal program is available to help cope with the legacy of this ecological and economic disaster. Title III of the Interjurisdictional Fisheries Program of the National Oceanic and Atmospheric Administration [NOAA] can provide funds for the restoration of fisheries following natural disasters. Unfortunately, no funds are available for Title III of the Interjurisdictional Fisheries Program.

For this reason, this amendment requests that $300,000 be appropriated to fund the Interjurisdictional Fisheries Program for the purpose of funding the Rhode Island Quahog Transplant Fund, a shellfish restoration program. The amendment will accomplish two goals. First, the amendment will allow the vigorous restoration of contaminated shellfishing beds. Second, this amendment will directly benefit Narragansett Bay shellfishermen through the Rhode Island Department of Environmental Management's Quahog Transplant Fund. This fund will use the skills of these shellfishermen in the restoration of Narragansett Bay shellfish beds. This will allow these shellfishermen to recover a portion of their losses that were the result of Hurricane Bob.

I am pleased that the Senate has seen fit to address this vitally important issue and to rectify the dire consequences facing Narragansett Bay shellfishermen as a result of Hurricane Bob. With this amendment, the Narragansett Bay shellfishing industry will receive some measure of the assistance that they need. In order for this provision to become law, it must now be agreed to by a House-Senate conference committee and agreed to by the administration. I am hopeful that the measure will be enacted.

Mr. BYRD. Mr. President, the bill before the Senate, House Joint Resolution 157, the dire emergency supplemental appropriations bill, provides $1.75 billion for disaster payments to growers who suffered crop losses in the 1990 and 1991 crop years. This assistance is urgently needed by farmers in West Virginia and it is long overdue.

I have heard from growers in my State about the losses they have suffered. West Virginia's farmers were hard hit by detrimental weather conditions in 1990 and 1991. Thirty-nine counties in West Virginia are eligible for assistance under this bill. In 1990, a late freeze resulted in an estimated $15.2 million in crop losses in West Virginia, primarily damage to fruit crops. For example, the West Virginia growers experienced a 35-percent loss in the apple crop, an 85-percent loss in the peach crop, and plum and cherry crops experienced a 100-percent loss. In 1991, West Virginia farmers also suffered heavy losses in feed grain and vegetable crops.

The assistance provided in this bill is needed for farmers in West Virginia and all over our Nation. Without this assistance some farmers will be facing severe economic losses from which they may not be able to recover. I support providing assistance to those who have suffered 1990 and 1991 crop losses.

SOME IMPORTANT BENEFITS

• Mr. ADAMS. Mr. President, several provisions in this legislation are important to Washingtonians. This bill will benefit those who have suffered through disasters this past year as well as children in our state.

The fires in and around Spokane last month took lives and devasted millions of dollars in property. The bill recommends an additional $943 million for the Federal Emergency Management Agency, including $31 million for Washington State to deal with the wildfires and other disasters.

The FEMA funding will also assist with ritual dike repair and other flood mitigation projects. Lack of funding has crippled important work on these projects. A dairy farmer in Snohomish, Washington wrote to me to say that all his farmland in the river valley was ravaged by the great flood one year ago this month. Dangerous, unrepaired flood control facilities still exist in that area. Milk prices are so low, this farmer cannot afford to suffer through another flood.

The bill also makes $1.75 billion available for farm disaster assistance. Farmers who participated in Federal farm programs and had a 35-percent crop loss are eligible for 65 percent of the target price. For nonprogram farmers, they must show a 40-percent crop loss for disaster assistance. In Washington, where severe freezing and hail damaged wheat and some tree fruits, this disaster assistance is extremely important.

Supplemental appropriations of $90 million for child immunization, $100 million for the Women, Infants and Children [WIC] feeding program, and $1.2 billion for Head Start are also included in this legislation. These programs serve Washington's children. For every dollar spent on the prenatal component of WIC, the savings in Medicaid costs range from $2.84 to $3.90 for newborns alone.

Another section I support denies any military sales to Saudi Arabia and Kuwait until these governments have paid the $3.25 billion outstanding for Operation Desert Storm. American servicemen and women did not hesitate to serve when called upon to help defend these countries. Why the delay?

Finally, I want to go on record in support of the Leahy amendment. It provides protection for the WI program and will restore stability in milk prices for our farmers.

Our dairyers have suffered from the same fate as credit card holders over the last several years. Credit card interest rates have remained high while real interest rates have dropped substantially. Retail milk prices have remained steady, and even increased, while the price paid to farmers has plummeted.

Our dairyers have been hit by a double whammy: a recession and steeply falling milk prices. In the first six months of this year, Washington lost 80 dairy farms, out of 1,260. It takes 2 years for a calf to become a producing cow. Our farmers need and deserve some certainty. Senator LEAHY'S amendment will do this.

DISASTER ASSISTANCE

Mr. SEYMOUR. Mr. President, I would like to commend the distinguished chairman of the Appropriations Committee, Senator BYRD, and the ranking Republican, Senator HATFIELD, for their efforts to include disaster assistance in this supplemental bill.

California agriculture has endured more than its share of natural disas-

ters this past year. In December 1990, a catastrophic freeze destroyed much of California's navel and Valencia orange crop, as well as many other crops. The damage to California agriculture was further compounded by losses due to 5 years of drought, and more recently due to an infestation of the sweetpotato whitefly in Imperial and Riverside Counties.

The devastating effects of the drought have been well documented. Last year, according to the California Department of Water Resources, roughly 800,000 acres of farmland were idled due to lack of water. The University of California, Davis has estimated that losses to irrigated crops totaled approximately $640 million. Another drought year similar to 1991 will be crippling to California's economy. In fact, the Bureau of Reclamation has already announced that even a normal year of rainfall will not provide enough water supply for regular deliveries.

In early October, an outbreak of the sweet potato whitefly, exacerbated by unusually warm weather, wiped out much of California's fresh winter vegetable crop. Crop damage estimates due to the whitefly infestation already total approximately $90 million. It is estimated that losses could reach $200 million by spring. This figure does not represent losses due to unemployment. Already, 2,500 farmworkers are out of work due to this infestation.

In terms of crop damage, the freeze which struck California in December and January was the most devastating. A Los Angeles Times article, dated January 6, 1991, stated the freeze is the worst to hit California citrus since the industry was launched in the 1870's. The California citrus industry supplies approximately 90 percent of the navel oranges, 50 percent of the fresh Valencia oranges, and 80 percent of the lemons in the United States. The citrus industry provides thousands of jobs and revenue to California's economy.

The freeze destroyed most of the navel and Valencia crop. This includes 90,000 acres of navel oranges, 40,000 acres of Valencia oranges, and 10,000 acres of lemons. The resultant on-farm crop loss was $450 million. Citrus trees also perished by the millions, burned by the freeze. Conservative estimates of crop damage have been as high as $1 billion. Some of the hardest hit agricultural communities were in the counties of Tulare, Fresno, Ventura, and Kern.

In Tulare County, crop damage exceeded $341 million, as unemployment reached upward of 23 percent. In the small town of Lindsay, unemployment reached 50 percent. In Fresno County, citrus producers had production losses totaling approximately $70 million.

This winter's freeze is the third worst disaster in the history of California, third only to the 1906 San Francisco earthquake and the 1989 Loma Prieta earthquake.

The combined efforts of USDA and the administration to assist farmers and farmworkers impacted by these disasters has been extraordinary. I am now convinced, however, that disaster assistance is the only solution to complete the economic recovery of these crippled rural communities.

Mr. President, I am hopeful that Congress, in close cooperation with the administration, will reach agreement on disaster assistance this year so that farmers will be able to get back to farming, and farmworkers will be able to go back to work.

Mr. SANFORD. Mr. President, let me briefly let my colleagues know that I intend to support the passage of the fiscal year 1992 supplemental appropriations measure which has been approved by the House and favorably reported from the Senate Appropriations Committee.

One major expenditure in this bill will help our farmers who have suffered significant crop losses in 1990 and 1991. These farmers have been waiting for relief for many months now. For many growers in North Carolina, help will come too late. It is high time that the Government did its share for these citizens who suffered severe drought, and in many areas hail, last year. Many of the same producers are presently calculating the losses resulting from this summer's heavy rains.

I have talked to many farmers of my State about the hardships that they have endured lately, some of whom have, in the last year and a half, made the painful decision to stop working the family farm.

Mr. President, North Carolina continues to rank among those States losing the largest numbers of farms. I will do what I can to see that we shed this distinction.

I must mention the wise advise of Ms. Jean Bryson of the little town of Faison in Duplin County, NC. Ms. Bryson tells me that the Government will end up paying one way or another—either through disaster payments or through the more expensive avenues of food stamps, unemployment benefits, and other programs resulting from a weakened economy. Ms. Bryson runs a farm supply operation and grows produce. She sees and hears the concerns of our producers; many of the men and women who are on the verge of bankruptcy today are not fly-by-night operators, but those conservative managers who have been in the business for generations and can no longer make a go of it.

I have talked with too many farmers in North Carolina who came into the 1991 growing season with a "must do" criterion for profit. Ms. Faye Wilcox of Lillington in Harnett County grows green beans, cucumbers, watermelon, and greens. She suffered a loss last year of nearly 80 percent of her crop. And, larger row-crop growers such as Mr. C.T. Perkins of Goldsboro in Duplin County saw somewhat similar situations. He lost at least 50 percent of his cotton last year and realized nearly as much damage to his corn.

Mr. President, since 1990, I have continuously pressed to find relief for these farmers and have endorsed free-standing legislation, as well as last year's reauthorization of the farm bill, which should have been sufficient to compel an appropriation for 1990 and 1991 crop losses. These efforts were apparently not adequate to get the job done in light of administration opposition.

These agriculture disaster relief provisions will do justice by those Americans who are bearing burdens not of their making.

This supplemental appropriations bill also includes $943 million for the Federal Emergency Management Agency. These monies are desperately needed to offer assistance to those who have been the victims of disasters across the United States.

In North Carolina, there were many who suffered losses due to Hurricane Hugo, which hit Mecklenburg, Gaston, and surrounding counties on September 21–22, 1989. There was massive destruction of homes, businesses, and farms. The cities and towns in the hurricane's path were without electricity and water over 2 weeks.

The cities of Charlotte and Gastonia responded very quickly to the emergency, moving the felled trees from homes and roadways and providing emergency phone lines and water. The total cost to Charlotte alone was over $42 million. But Charlotte and Gastonia together have over $8.4 million in claims from FEMA still outstanding. The money contained in this supplemental appropriations bill should finally cover those outstanding FEMA claims related to Hurricane Hugo.

I would like to add that this funding comes at a time when the cities involved are faced with having to reduce services due to FEMA's inability to reimburse the cities for the costs they incurred in their emergency efforts.

I must point out that the administration had requested only $150 million for FEMA's emergency funds. That small amount would not have covered the needs of Charlotte and Gastonia. Therefore, I am grateful that both Houses of Congress thought it imperative to provide the $943 million necessary to cover emergencies like those we experienced in North Carolina due to Hurricane Hugo.

And while on this subject, I would like to add that I believe we need to ensure that FEMA responds more promptly in offering followup assistance to communities like Charlotte and Gastonia. I am aware that it has taken quite a few months for FEMA to approve reimbursements for emergency expenditures to our North Carolina

communities and I would hope that this improves in the future.

This bill also includes $1.2 billion in emergency funding for the Head Start Program to ensure that more eligible children receive funding under this program. I believe that early childhood education is vital to the later academic success of many students. Each year almost 1 million children from low-income families enter school for the first time. While their more fortunate classmates may face the new challenge with assurance, many children from low-income homes begin school with health problems and a lack of self-confidence. Without the skills and the will to move ahead, these children often fall behind in their first years of school and find their troubles further compounded as they pass through the education system. Head Start seeks to start low-income, disadvantaged and handicapped students out with the skills they will need to be academically successful. Increasing the funding for Head Start will ensure that more disadvantaged children across the United States can obtain the benefits of early childhood education.

Mr. SIMPSON. Mr. President, I rise to voice my opposition to the dairy legislation introduced as an amendment to the emergency supplemental appropriations bill. I believe that the legislation is shortsighted and not comprehensive. In my opinion, it does little to provide an extensive long-range dairy program that will assist the dairy producers, protect low-income consumers, or protect the integrity of the cattle industry.

My fine and able friend and colleague from Vermont, Senator LEAHY, presented an amendment today to increase the current price support of $10.10 for hundredweight for fluid milk to $11.10 per hundredweight. The amendment also called for a paid herd-diversion program. Although the increase in the price support is quite small. I opposed the amendment because I truly believe than an increase would send the wrong message to producers. It does not make a lot of sense to try to fight overproduction in the dairy industry, while attempting to rationally consider providing an incentive to overproduce.

I too have great concern for the dairy producers in my fine State of Wyoming and throughout the Nation. I know they are facing increasing production costs and are having some economic hardship. In my opinion, an increase in the support price would inhibit the current workings of a successful free market system. Wyoming producers have production costs of around $9 per hundredweight, while the price received for milk is around $10.50 per hundredweight. After taking out about 50 cents for taxes and management costs, producers end up making about $1 in profit per hundredweight. Current statistics from the Wyoming Department of Agriculture show that Wyoming producers are doing more than just breaking even.

The other concern with the amendment is the paid Herd-Diversion Program. I am opposed to dairy policy that artificially mandates the slaughter of dairy cattle to control the overproduction of milk. I believe that in the free market system business-oriented dairy producers will send their cows to slaughter when the milk market is in oversupply. I don't think the Government has to pay producers to make the "right" production decisions.

I have listened intently to both sides of this issue and fully comprehend that a serious philosophical difference exists between dairy and cattle producers. The cattlemen feel threatened by the aspects of any kind of diversion. Their stance is reasonable. The cattle industry was devastated in 1986 by the Dairy Termination Program which was grossly mismanaged by the U.S. Department of Agriculture.

I want to strongly state that the tactics sometimes employed by the adversaries, on this issue have been at cross purposes, so that in the end, little could really be done to forge dairy legislation that could benefit those dairy producers who need it more. That is most unfortunate.

I am optimistic that the Department of Agriculture will do its best to monitor the daily situation in the following months to ensure that the dairy industry is not irreparably damaged and the fine traditions of that industry preserved. My good friend Senator DICK LUGAR, the intrepid and splendid Senator from Indiana spent enormous amounts of his time in the last year to ensure a fair dairy policy for all of those who would be effected. His devotion to American agriculture is always commendable.

I would also like to recognize the fine efforts of my friend Senator LARRY CRAIG of Idaho. He forthrightly took on the task of continuing a dialogue between the sparring industries long after others had given up. His total dedication to good farm policy deserves great credit.

I do look forward to working closely with my colleagues in the following months to revisit and further investigate the plight of the dairy industry. I maintain my position that any legislative alternative to the current dairy policy adopted under the 1990 farm bill must always take into account the welfare of the cattle industry. These industries must work together and strive for common ground.

• Mr. HARKIN. Mr. President, I cannot support the fiscal year 1992 defense authorization bill. This remains a cold war budget in a post-cold-war world. The total military budget authority of $290.8 billion is an increase of $5.2 billion over fiscal year 1991. The Soviet threat is disintegrating before our eyes, and the Congress agrees to increase the defense budget, including $160 for the defense of Europe.

The Pentagon has estimated for years that about 60 percent of the military budget was justified on the basis of stopping a surprise Soviet-Warsaw Pact attack on Western Europe, with only 10 to 14 days' warning. In effect, we spent over $160 billion each year to defend our European allies.

Obviously, this basis for Pentagon budget planning has evaporated. The Berlin Wall is gone. The Warsaw Pact is dead. The Soviet Union itself is in disarray.

Proponents of continued high military spending contend that Soviet military forces are still strong and could be reinvigorated, and that the Soviets are still improving their strategic nuclear weapons, which remain as potent as ever.

A hard-line Soviet Government could regain control of the failing Soviet empire at any time. The next coup could succeed. But we would have years of warning before any new Soviet menace could even contemplate an attack on Western Europe. A reconstituted Soviet hard-line military would have to reconquer Poland, Czechoslovakia and possibly Byelorussia and the Ukraine to reach Germany.

Therefore we no longer have to maintain a massive military machine that can respond in 10 to 14 days. We can and must end our $160-billion dollar per year subsidy of our European allies. We can afford to shift active duty forces to the Guard and Reserve. We can afford to slow down our rush to produce a new generation of conventional high technological weapons. The gulf war showed that our existing military hardware is superior to modern Soviet planes and tanks in the hands of the Iraqis.

And we can and must end our expansion of our nuclear weapons arsenal. We must acknowledge that nuclear weapons serve no useful military purpose, except to deter their own use. We can deter any rational leader with a few hundred survivable nuclear warheads. We can afford deep reductions in nuclear weapons, from our current level of 12,000 strategic deliverable warheads down to 1,000 or so on each side.

Other proponents of excessive military budget point to the Iraq war to prove that we live in a dangerous and unpredictable world. But we defeated the world's fourth largest army in 43 days using just 15 percent of our total forces.

We do live in a dangerous world, and we must have a strong military, able to defend America against any potential enemy. But we are running out of enemies. Countries that might conceivably be hostile to the United States and their estimated annual military budgets include China, $21 billion; Iraq,

$13 billion; Iran, $22 billion; North Korea, $5.8 billion; Syria, $3.3 billion; Libya, $3 billion; and Cuba, $1.7 billion. The fiscal year 1992 Defense budget of $290.8 billion is therefore 13 to 270 times larger than any potential enemy. If we cannot defend ourselves spending more than 13 times any potential adversary, then maybe we aren't spending our money wisely. As the Iraq war illustrated, however, we have vast overkill capability.

But this defense budget for fiscal year 1992 ignores these realities of 1991. The Soviet Union is disintegrating before our eyes, and we authorize a $5.2 billion increase. The DOD budget is $90 billion more than we spent after the Korean war and after the Vietnam war, still in the midst of the cold war. This is irresponsible, given our grotesque and growing national deficit and unmet domestic needs.

We should not be determining our military spending by reference to last year's budget. Last year's budget was also a cold war budget. Our military budget should be determined by what we need to protect America and American interests around the globe, not by how much we were spending when the Warsaw Pact was intact.

I oppose many provisions in this bill, but let me cite several more egregious items.

First we have the B-2 stealth bomber. The administration requested $4.8 billion to build four more bombers. Congress wisely chose to cancel production, but we still authorized $4.4 billion. While $1 billion was put into escrow pending another vote to build one more plane next year, this still seems like quite a bargain: $4.4 billion authorized to build no planes, versus $4.8 billion to build four planes.

Then there is star wars, born to stop a massive Soviet attack with thousands of missiles and nuclear warheads. After spending $25 billion, more than that consumed by the entire Manhattan project that created the first atomic bombs, we have learned that we do not have the technology to stop even a small fraction of a Soviet nuclear attack. So now the goal posts have been widened. Now star wars has to stop only 200 warheads due to an accidental or *n*th country attack.

The original threat from the Soviet Union has diminished to insignificant proportions, but the star wars budget is increased by 30 percent over last year's budget, to $4.15 billion. While I do support the ground-based theatre, short-range missile defense systems such as improved versions of the Patriot missile, this accounts for only 20 percent of the SDI budget. We could provide a robust tactical missile defense system to stop real world threats and still cut SDI funding by more than 50 percent.

This defense budget contains other nuclear weapons programs, such as the Midgetman, $549 million; 6 more MX missiles, $252 million; 49 more of the D-5 missiles, $1.1 billion; and 120 Advanced Cruise Missiles, $610 million. In addition, the Department of Energy Atomic Energy Defense Activities is funded at $12 billion, or $1 billion more than last year for these nuclear weapons activities, including cleanup of the nuclear weapons production facilities. These nuclear weapon programs should be substantially reduced with the end of the cold war.

Finally, this bill includes an unknown authorization for various intelligence activities including the CIA, the National Security Agency, the National Reconnaissance Office, various other intelligence agencies, and super secret weapons in the so-called black budget. Outside experts estimate that this black budget may account for $30 billion of the $290.8 billion in this bill.

The American public has a right to know how much is spent on these supersecret projects. We must have accountability, particularly when funds as large as $30 billion, not million, are hidden from public view. Article I, section 9 of the Constitution requires that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time." The Constitution doesn't say all money except that in the black budget. It says that expenditures of "all public money" shall be made public.

During the cold war, we looked the other way and ignored this violation of the Constitution by keeping intelligence budgets secret from the American people. We can no longer accept this secrecy. The Senate Intelligence Committee voted to make the black budget total public, but this provision was removed at the insistence of the White House.

In short, I cannot support this budget which is rooted in the past. We must move to reduce our military forces and budgets to reflect the real external threats to our Nation, and to transfer funds from the military to deficit reduction and to making necessary investments in health, education, infrastructure, environmental restoration, clean energy development, and other urgent domestic needs.●

DEFENSE COOPERATION ACCOUNT

Mr. INOUYE. Mr. President, the Defense chapter of the supplemental provides an appropriation of $3.4 billion from the defense cooperation account to various DOD and related appropriations to cover incremental costs of Operation Desert Shield.

The amount provided is $850.4 million more than requested. The specific differences related to the proper allocation of costs to Operation Desert Shield for reconstituting Marine prepositioning forces which were not originally charged to Desert Storm, and for the replacement of equipment lost or damaged during Operation Desert Storm, but for which no funds were originally requested. These include: $70.2 million for Apache helicopters, $268.8 million for F-15E aircraft, and $40.7 million to replace damaged tailpipes on F-117 aircraft. An additional $100 million is included for Kurdish protection, and $15 million for humanitarian assistance.

The bill also provides a reallocation of $6.3 billion in previously appropriated funds among military personnel and operations and maintenance appropriations to reflect the latest estimate on how funds have been needed to cover the costs of Operation Desert Shield.

The committee has adhered strictly to the budget summit agreement that only funds to cover legitimate costs of Desert Storm have been included.

DISASTER ASSISTANCE

Mr. LAUTENBERG. Mr. President, I rise today to express my support for several important provisions of House Joint Resolution 157, the dire emergency supplemental appropriations bill. This legislation includes funds which will provide much-needed relief to many residents of my State who have been hard hit by natural disasters. This bill lends a helping hand to farmers who produce fruit tree crops in the southern part of the State, and provides sorely needed funds to replenish the Federal Emergency Management Agency disaster relief programs.

CROP DISASTER ASSISTANCE

Mr. President, 1990 was a disastrous year for growers of peaches, apples, and other fruits in my State. Extreme freezing temperatures late in the spring caused the loss of approximately 50 percent of the peach crop statewide, with losses on individual farms of up to 80 percent of total production. The apple crop was equally hard hit, while producers of other fruit crops, such as pears, plums, blueberries, and nectarines faced losses as well.

While the President declared the six counties in southern New Jersey eligible for disaster assistance, without funding for the crop assistance provisions of the 1990 farm bill, fruit farmers had nowhere to turn. Many peach producers face a risky outcome for their crops, with high up-front costs required for pruning and cultural activities. I have heard from peach growers in my State who are burdened with mounting debts because of their devastating losses. They fear that they will lose their farms and livelihood. This legislation provides relief for these farmers whose crops were crippled by freezing temperatures.

My hope is that this assistance will enable fruit farmers to get back on their feet, and to invest in next year's crop. Fruit production is a mainstay of New Jersey's agriculture industry. I am gratified that this bill takes action to assist farmers facing difficult times.

FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

This legislation contains $943 million to replenish the funding for FEMA's disaster relief programs. Without these resources FEMA will be unable to meet the emergency needs of our communities which have been hard hit by natural disasters. It is essential that we restore this funding so FEMA can assist communities that are struck by disasters to save lives, protect property, and protect public health and safety.

My State, along with other Northeastern and mid-Atlantic States, has experienced serious flood damage from the October 1991 storm. Shortly after the storm hit, I visited the coastal areas of New Jersey, along with State and Federal officials, to inspect the extent of the flood damage. I was deeply disturbed by the extent of the damage to private and public structures.

The Federal emergency relief well has run dry. In the midst of this recession, victims of natural disasters are hit twice—once by the economy and again by the storm. We have an obligation to ensure the availability of Federal resources to restore businesses and to assist people to restore their homes and their communities.

New Jersey's request for a Presidential disaster declaration is pending. I sent a letter to the President, cosigned by the rest of my colleagues in the New Jersey delegation, urging him to act promptly and favorably on New Jersey's request. If the President approves New Jersey's request for a declaration, my State will be forced to stand in a long line of backlogged emergency disaster relief obligations.

Mr. President, I note that the report accompanying this bill includes language at my request urging FEMA to actively use its power to provide assistance to communities that suffer flood damage and beach erosion in Presidentially declared disaster areas. It is my hope that FEMA, in conformity with the law, will apply its regulations liberally to provide prompt assistance to repair the flood damage and beach erosion in New Jersey caused by the recent storm.

I commend the distinguished chairman for his outstanding work on this legislation. It is important that we replenish funding for FEMA's disaster relief programs and provide funds for the crop disaster assistance program authorized in the 1990 farm bill. I urge my colleagues to support this legislation.

INDIAN HEALTH CARE

Mr. DECONCINI. I rise today to support this supplemental appropriations bill. I do so because there is funding in the bill to cover disasters—the true emergencies which have occurred over the past year which we could not have planned for nor anticipated. However, I do have reservations about this bill because it funds other very meritorious programs—programs like WIC, Head Start and Child Immunizations for which I have fought for increased funding for many years—but programs nonetheless, which do not meet the test of a true emergency under the Budget Act. I believe all these programs should be given higher priority in the budget and appropriations process. But after the process has been completed, we should live within the spending limits we were given. The supplemental appropriations bill should be the vehicle for funding only true emergencies.

If we start down this road of appropriating funds as emergencies, those programs which we could not fully fund in our regular appropriations bills because our allocations would not permit it, where do we stop, Mr. President?

For fiscal year 1992 my Treasury bill allocation was cut $1.6 billion in budget authority and $380 million in outlays from the current services level. I didn't like it, but I had to live with it. It forced the subcommittee members to pick and choose among competing priorities. We had to cut $97 million from GSA's rental program which funds Federal office space requirements. Most of these funds represent contractual requirements for leases. We had to cut $36 million from the program which funds operations and maintenance of Federal buildings. We had to cut $180 million from the Postal Service's revenue forgone program. And we had to delay the obligation of $97 million for redesign of the IRS computer systems—that agency's No. 1 priority. Mr. President, that was just my bill. Other subcommittees experienced similar problems. But we made our cuts. We had no choice. We were following the rules we were told to follow. What we are doing now is funding as emergencies certain programs the subcommittees were unable to fund. But there was no rhyme or reason to the process. If we are going to declare certain programs as emergencies, then why not include funds for the $1 billion backlog in the VA medical equipment account and the hundreds of millions of dollars shortfall in the VA medical care account?

One area that always gets overlooked in these emergency designations is health care for native American programs. The status of Indian health care services is deplorable. They suffer epidemic levels of debilitating diseases like diabetes and alcoholism; 40 percent do not receive early prenatal care; their children die at much higher rates than other Americans, and their elderly by and large do not receive basic geriatric services which most Americans take for granted.

Mr. President, I get upset when I see no rational basis for the designation of emergencies. I get upset when I know that Indian health care programs are underfunded by 30 percent, yet no one wants to call this problem an emergency and include additional funds in the bill for these accounts. Chronic underfunding of these accounts has forced the Indian Health Service and tribal health programs to ration care for many years. Sadly, native Americans must defer treatment for complicated health problems until a medical emergency arises which demands immediate attention.

I know the difficulty the distinguished Appropriations Committee chairman faced with respect to this bill, particularly with the previous action taken by the House. I also want to take this opportunity to acknowledge the support my distinguished friend and colleague from West Virginia gives in his own subcommittee to Indian programs—he has been extremely generous given the budgetary limits he faced.

I mention these areas simply to make the point that I think the process is askew. We ought to use the budget process to establish our national priorities. We ought to use the supplemental appropriations process to fund true emergencies which are agreed upon by the administration and the Congress.

DISASTER RELIEF PROVISIONS

Mr. FOWLER. Mr. President, I rise today on behalf of farmers from across the State of Georgia who have suffered too long from the failure of the White House and the Department of Agriculture to understand the critical need for agricultural disaster relief funding.

Today, the Senate can once again send a message to President Bush that we will not stand idly by while the Nation's rural economy reels from the effects of the 1990 drought and the torrential rains of 1991.

Through passage of this emergency supplemental appropriations bill, we can once again ask the President whether he will put the needs of American farmers on a level equal to that of farmers half a world away.

We can ask, once again, whether the President is willing to lend a helping hand to the working men and women who form the backbone of our Nation's rural economies.

We can ask whether the President is willing to put American farmers—and Georgia farmers—first.

In 1989, Congress provided needed relief to the Nation's farmers who suffered severe losses because of dry weather. But the drought of 1990 was worse—possibly the worst the farmers of Georgia have ever experienced.

The Governor of Georgia requested that 141 out of 159 Georgia counties be declared agricultural disaster areas. Out of about 73,000 farms in Georgia, 63 percent, or 45,132, experienced losses of 30 percent or more.

These losses were not confined to any region or any crop. Only 18 of 159 counties in Georgia did not experience over-

all crop losses of more than 30 percent. The losses extended to corn, peanuts, hay, pasture, grain, sorghum, cotton, and soybeans.

The revenue loss for Georgia alone is estimated at $750 million. I hate to imagine the number for the Southeast and across the Nation.

In spite of all this compelling evidence, there was nothing I or anyone else was able to do last year to convince the President and the Secretary of Agriculture to request disaster relief. We supplied the administration with the facts. We made our wishes known in the appropriations bill—all to no avail.

The bad weather combined with the administration's inaction have placed a heavy burden on small towns already suffering in a sluggish economy. Our farmers, who were just recovering from the hard times of the last decade, are harder hit than ever. Their difficulties have nothing to do with their management efficiency, economies of scale of any other administration buzzwords in agriculture.

Just this week, President Bush announced more than $1.5 billion in emergency assistance to the Soviet Union. Once we have completed action on this bill, I hope that President Bush will also be able to see his way toward approving emergency funds to help people suffering right here at home.

Mr. President, for more than a year now, the only thing that has stood between disaster-stricken farmers and the relief checks that they deserve is the President of the United States.

I certainly hope that remaining obstacle will be removed after a decisive vote in the Senate today.

BENEFICIAL PROVISIONS

Ms. MIKULSKI. Mr. President, I rise in support of the committee-reported version of this dire emergency supplemental appropriations bill.

The chairman of the full Appropriations Committee, Senator ROBERT C. BYRD, has crafted a bill that meets the needs of communities devastated by numerous natural disasters, and provides vitally needed funds for costs incurred as a result of Operation Desert Storm, and our chairman should be commended.

As chair of the VA, HUD, and Independent Agencies Subcommittee, there are a number of provisions, which I would like to mention.

First, the bill provides $943 million for FEMA disaster relief assistance. Recent disasters have hit many areas of the country from Hurricane Bob across the eastern seaboard, to devastating fires in Oakland, CA, and Washington State. Moreover, many communities have gone without needed Federal disaster assistance since April, when FEMA ran out of disaster relief funds and was forced to quit funding public assistance projects. Of the funds provided, FEMA is authorized to transfer up to $1.25 million to salaries and expenses, to hire additional personnel to meet the escalated level of disaster activity.

Some have said that this FEMA assistance is due to the Congress shortchanging the disaster relief account. Nothing could be further from the truth. Since 1985, the Congress has appropriated more than $3 billion in FEMA disaster relief, while the President has only requested $1.8 billion. So the Congress, in response to acts of God, for which this disaster relief fund is intended, has provided nearly 67 percent more for disaster relief since 1985 than requested during that time by Presidents Reagan and Bush.

Finally, I would like to add that 1991 has been a particularly devastating year in terms of natural disasters. There have been 38 declared disasters to date—costing $396 million—compared to 24 in an average year, costing $270 million.

In chapter 1, which covers costs incurred as a result of Operation Desert Shield/Desert Storm, $10 million is provided for marriage and family counseling for veterans returning from Operation Desert Storm. There has been an inordinate number of returning military personnel facing marital and familial difficulties as a result of service in the Persian Gulf. These veterans deserve to receive the counseling they need to adjust to civilian life. These funds will enable VA to employ a part-time marriage and family counselor at each VA facility.

The bill includes language allowing the Court of Veterans Appeals to transfer $950,000 to the Legal Services Corporation for grants to organizations to provide representation for pro se, or unrepresented, cases. These pro se cases make up 65 percent of all cases before the court, and require excessive amounts of time and personnel to process, thereby increasing the court's backlog of cases and denying veterans timely response to their appeals. Due to the emergency nature of this problem, and the growing backlog of veterans claims, this provision was included.

An administrative provision has been included giving the Environmental Protection Agency discretion to award one-half of 1 percent of construction grants funds to Indian tribes, thereby assuring the eligibility of Indian tribal governments and Alaska Native villages for EPA funds to construct wastewater treatment facilities. This set-aside existed up until 2 years ago, and will likely be re-established under the Clean Water Act reauthorization. In the mean time, Indian tribes have a vital need for sewage treatment construction grants, and without this language tribal governments and Alaska Native village will not have an opportunity to apply for these funds.

The bill also includes three technical amendments: First, making some minor adjustments to staffing at three HUD headquarters offices; second, repealing a cap on the CRAF-Cassini mission, and finally a technical provision has been included to correct a drafting error in the regular fiscal year 1992 VA, HUD, and independent agencies appropriations bill. Due to recodification, this VA-related provision is needed. Each item in this bill has a compelling and urgent need, and I urge my colleagues to support its expeditious adoption by the full Senate.

DISASTER RELIEF

Mr. DIXON. Mr. President, as I look at this dire emergency supplemental appropriations bill, I see very few things that can be classified as a dire emergency. Many provisions are worthy, some are even important enough to do right now. There is only one provision, however, that can truly be classified as a dire emergency: providing disaster relief to the farmers of this country.

Farmers in Illinois and across the Nation have suffered enormous losses in 1990 and 1991. Eighty-nine of Illinois' 102 counties have been declared disaster areas because of the drought-induced failure of the winter wheat crop. Eighty-six Illinois counties have been declared disaster areas because of the drought's destruction of our corn and bean crops. Counties normally yielding 174 bushels of corn per acre are currently harvesting as low as 20 bushels per acre. Counties accustomed to a yield of 50 bushels of soybeans per acre are now reaping yields as low as 20 bushels per acre.

Because of the nature of this bill, and the need to get desperately needed relief to our producers as soon as possible, I am reluctantly supporting passage of this bill. I can only hope that when this bill comes back to the Senate, that provisions that are not real emergencies and which should be considered in a more deliberative fashion are removed. I want to make it crystal clear, however, Illinois needs this disaster assistance. We must enact this bill before Congress adjourns for the year.

Mr. WELLSTONE. Mr. President, I rise in support of this emergency supplemental appropriations measure. There is no question that the circumstances faced by thousands of Americans this year due to natural disasters constitute an emergency. Nor can anyone argue that many thousands of children in this country do not face an emergency situation. Given recent statistics concerning American children, the supplemental spending in this bill for WIC, Head Start, and childhood immunization are clearly justified.

I would particularly like to note the need for this bill's agricultural disaster relief provisions. These funds are urgently needed to meet a real emergency in my State, as well as in the States of many of my colleagues. The

situation in the countryside, where thousands of farmers face what could be calamitous economic losses this year due to the weather, justifies this emergency response. Despite our difficult budgetary circumstances, we must act.

In Minnesota this year, thousands of corn and soybean farmers, especially in the southern and western portions of the State, planted very late. In some cases, they were unable to plant at all. This was due to torrential rains, record rains, in the spring. Many now face serious financial loss. Of course, when farmers suffer an economic disaster, the economies of those small towns in which the farmers do their business also suffer.

Many Minnesota farmers, although they normally carry Federal crop insurance, could not obtain it this year because Federal crop insurance required planting your crop by a certain deadline date. The heavy rains prevented meeting this deadline. Many farmers switched from corn to beans because of the rain. These farmers actually were quite hopeful during the summer. The weather improved, and it appeared the beans would do well. Since they had planted late, however, all they feared was an early frost. Of course, we did have an early frost this year in southern Minnesota. The frost seriously damaged the crops of many of those farmers who had switched from corn to beans, and who though they had averted a disaster through their action.

Mr. President, farmers know they take risks. They know that the weather does not always cooperate with their need to make a living. But many of those who suffered serious damage this year in Minnesota have not been able in recent years, due to low prices, to build up a cushion to survive this disaster. And now the weather conditions of a single year, obviously beyond their control, threaten to wipe some out.

Along with many of my colleagues in both parties, I have pleaded for 5 months now with USDA officials to assist those hurt by this year's weather. I am happy we can finally offer some relief, and sincerely hope the President will recognize this emergency.

I have already spoken at some length about the dairy amendment to this bill. I will not add to those comments here.

I also wish, however, to note with pleasure that we were able to include in this bill the end-use certificate provisions, regarding imported agricultural commodities, introduced by my colleague from North Dakota. The provisions will improve the monitoring of some imported grain, and will help ensure that imported grain does not become part of our Government-supported grain export program.

Finally, I am very pleased we have been able to get to this bill before Thanksgiving, and I am grateful to Chairman BYRD for his efforts to ensure that outcome.

Mr. DODD. Mr. President, I rise in support of the legislation we are considering today to provide supplemental appropriations to meet several urgent needs. I support the legislation, first, because it will help meet our national commitment to the veterans of Desert Shield/Desert Storm. Second, the bill will expand the Federal resources we devote to the cost-effective early intervention programs for children and families throughout the Nation.

Some may argue that the needs of America's children do not constitute an emergency. But when infant mortality rates in our inner cities are higher than most Third World countries; when more than half of infants and toddlers in our Nation's capital lack immunizations; when thousands of children enter school not knowing colors or numbers, much less being ready to read—then, Mr. President, that is clearly a national emergency.

Very simply, the supplemental appropriations bill directs more funds to early intervention programs that have been proven to work. It begins by adding $1.2 billion to Head Start, a program that is a key to improving school readiness. Currently, two of every three eligible children cannot participate because there isn't enough money. Last year, we unanimously approved legislation I sponsored to authorize full funding for Head Start by 1995, so that every eligible child could participate. These supplemental funds will move us closer to meeting that commitment.

Why is it so important to keep that promise? Of course the children benefit—they are less likely to be held back in school or be placed in special education. Head Start also saves money: $1 invested in the program saves $4.75 in future costs related to welfare use and crime. But there is another reason we often overlook. A skilled work force is absolutely essential to our economic future. The work force of the future will have to be the best trained and educated of any in our Nation's history. To build that work force, we have to begin now, with the very children who are now missing out on that important early boost that Head Start gives them. So, while Head Start plays an important social role, we should point out that it can play a pivotal role in the long-term economic strength of our Nation as well.

The supplemental also provides $100 million for the Special Supplemental Food Program for Women, Infants, and Children—or WIC. The extra nutrition WIC provides helps to reduce infant mortality and the number of births at low birthweight. Like Head Start, WIC saves money—a $1 investment in the prenatal component saves $3 in short-term hospital costs alone. Yet, less than two-thirds of those eligible are served.

The legislation provides an additional $90 million for immunizations. The benefits of immunization are obvious. Dramatic declines in the incidence of diseases such as rubella, mumps, polio, diphtheria, tetanus, and pertussis mean a reduction in the impairments and institutionalization that can result from them. One dollar invested in immunizations will save $10 in later medical costs. Yet, in the District of Columbia, only 44 percent of infants and toddlers are adequately immunized, a rate that is similar to that of other large cities. To sit by and watch increases in cases of measles and mumps when we know exactly how to prevent them is insanity. Clearly, these additional funds would be money well spent.

Under the provisions of this bill, funds for these children's programs would not be released automatically, but only if the President declares that there is an emergency. It is my fervent hope that President Bush will look around him—visit a Head Start center or a clinic where children are immunized or a neonatal intensive care unit—and see that our Nation's children truly are in need and that these programs truly respond to an emergency. Unquestionably, when Iraqi troops filled the streets of Kuwait City, that was an emergency. I think if we look in the streets in Bridgeport or Hartford, we will find an emergency there, as well. I hope the President will join us in responding to our children's crisis.

Mr. President, this bill also serves to meet other critical needs, and I would like to take just one more moment to express my strong support for the increased funding included for the Federal Emergency Management Agency. Over 3 months ago, the State of Connecticut, along with much of the Northeast, was devastated by Hurricane Bob. Losses in my State alone topped $48 million. Given the extent of the losses and damage, President Bush declared Connecticut a major disaster in late August and FEMA stepped in to lend a hand to towns and communities around my State. Unfortunately, it was an empty hand as FEMA's disaster assistance fund had already been exhausted, and it will remain empty until FEMA's funds are replenished—something this legislation would finally do. In this regard, I urge my colleagues to support passage of this measure.

Mr. SEYMOUR. Mr. President, as the Senator from Utah is well aware, California's Bay Area communities continue in their efforts to recover from the devastation of the Loma Prieta earthquake. And there is no need for me to detail at any great length the added pain and trauma that has resulted from the recent fires throughout Oakland, Berkeley, and other East Bay communities.

Clearly, the Loma Prieta earthquake damaged and destroyed hundreds of

structures throughout the bay area. However, today, I would like to draw your attention to one structure in particular, the Merritt Peralta Medical Center. Like any other facility that was damaged, Merritt Peralta immersed itself in the disaster survey report [DSR] process to secure FEMA funding for its damaged and now condemned hospital tower. But to the difference of other applications, FEMA delayed the Merritt Peralta applications for a period of 6 months.

It is important to note that this is the only hospital facility in the bay area that remains closed as a result of the earthquake. It is incurring significant losses daily, which limits its ability to provide comprehensive health care services to the community.

For 6 months, beginning in November 1990, medical center officials believed their DSR was being processed and that Federal funds would be forthcoming. However, it wasn't until May of this year that FEMA notified medical center officials that the DSR had been suspended. This delay has resulted in the medical center's application being pushed further down the funding list so that funding in the near future is unlikely.

Is it the understanding of the distinguished ranking member of the VA-HUD Appropriations Subcommittee that it is within FEMA's discretionary authority to restore the Merritt Peralta Medical Center application to its previous place in the funding queue so that the application can be processed immediately and the funding provided?

Mr. GARN. Mr. President, in response to the Senator from California, I would like to say that FEMA should give priority to projects where critical and compelling community needs such as health care are at stake. While I am not familiar with the specifics of the Merritt Peralta Medical Center case, its role as a needed health care center in the Oakland and Alameda County area should qualify it for such treatment. As long as its application for assistance is within the scope of FEMA regulations, I would encourage FEMA to act expeditiously.

On one final note, I would like to reiterate that the bill before us provides $943 million for FEMA disaster assistance programs. FEMA advises us this amount will be sufficient to take care of pending requests for public assistance, including projects dating back to the 1989 Loma Prieta earthquake.

Mr. SEYMOUR. Mr. President, I want to thank my colleague for his assistance and attention to this matter.

SENATOR LEAHY'S DAIRY AMENDMENT

Mr. DOLE. Mr. President, earlier today, the Senate rejected by a vote of 51-47 an amendment offered by the Senator from Vermont to increase the dairy support price and to establish a voluntary dairy diversion program. I commend the chairman of the Agricultural Committee for his diligent and untiring efforts on behalf of dairy producers.

Mr. President, the legislation considered earlier today was seemingly a final effort in an attempt to get some kind of dairy legislation passed by this body this year. Although the bill had changed drastically over the last 6 months, a few provisions remained which were of concern to myself and others.

Of course, many of us were concerned about the impact which a diversion program would have on the beef market. Admittedly, there were provisions in the bill to protect beef producers by establishing caps for increases in culling rates, but these caps were inconsistent with the amount of cows that would have to be liquidated in order to comply with other provisions of the law. In the end, I am pleased that we escaped the sure difficulties which would have arisen for beef producers with the implementation of the bill, and have avoided the "unintended" consequences of years past.

What's more, as several of my colleagues pointed out during the debate, this proposal would have had a severe impact on the ability to provide dairy products to low-income persons and those taking part in programs such as WIC—besides increasing the cost of milk to all consumers. Let me be the first to recognize the distinguished chairman's longstanding devotion to nutrition issues and his work on the WIC program and the food stamp program, but let's not think that the impacts on these programs can be swept away by mandating price controls at the retail level. That is one thing that I hope this body does not involve itself with.

For whatever reason, we've also seen producer support for the bill take a nosedive recently. I'm sure that most producer groups expect to be able to come back next year and get more, and maybe they will. But I also think—and I hope—that they recognized the impact which a dairy diversion program would have on the small producers, the husband and wife team milking 30 or 40 cows. Mr. President, those are the people who would reduce production in exchange for cash payments—not the large producers who would continue to expand and make up for the production forfeited by the small family producers.

But probably most important, for matters of this discussion, is the fact that I have a letter addressed to me from OMB Director Darman saying that President Bush's senior advisers would recommend a veto should this provision have been accepted. It seems to me that there are a number of provisions in this overall appropriations package that are important to a lot of people, so I'm pleased we did not put those interests in jeopardy.

Mr. President, I'm sure that this issue will be revisited next year, and maybe then we can do something responsible. We will be in the midst of an election year, so, most likely, it will not be responsible. But I hope that we all remember the lessons of this year—that the market did work—and keep any future debate focused on legislation which does not have such dire implications for so many other sectors of our economy, as well as consumers.

WINTER WHEAT DISASTER ASSISTANCE

Mr. DOLE. Mr. President, I rise to offer an amendment to the bill before us to include a disaster assistance provision for winter wheat producers who have already planted their 1992 crop. This provision offers disasters coverage for that crop which, although harvested in 1992, has already been planted and is now facing severe disaster conditions.

Although Kansas had a nearly average wheat crop this year, our fall crops were ravaged by drought conditions that reflect the driest year on record. While those crops will be covered—if a disaster bill should ultimately be approved by the administration—many wheat producers, who's crop should already be well established, are now facing a complete loss.

Mr. President, my State produces—almost exclusively—Hard Red Winter wheat, which is the most common and popular variety harvested in the United States. Winter wheat is planted in the early fall, and a producer hopes to have a good stand established before the harsh winter storms begin whipping across the plains. The crop matures and ripens in the spring, for harvest sometime in late June and early July.

Unfortunately, due to a drought which has left 100 percent of Kansas topsoil in short to very short moisture conditions, fields throughout the State lie bare because the seed has not even germinated. A good portion of that which had sprouted and emerged was severaly damaged several weeks ago by a winter storm which covered parts of my State with ice and more than a foot of snow. If that snow would have stayed in the field, it would have provided both moisture and needed insulation for the crop—but, unfortunately, most of it blew south. We did receive some timely rains earlier this week, but it is uncertain whether the crop will show any appreciable benefit.

My amendment specifies that, for 1991 crops covered under the act, 1991 crops includes those program crops planted in 1991 for harvest in 1992. The authorization bill, which should be coming to the floor this week, as drafted, already goes back in time to provide assistance for 1990 disasters. Given the current conditions in the major wheat producing areas of the country, I hope that my colleagues will join me in providing this assistance to the wheat

producers who are in the midst of a disaster at this very time.

FUNDING FOR CALIFORNIA NATURAL DISASTERS

Mr. SEYMOUR. Mr. President, there is another aspect of this bill whose critical importance to victims of natural disasters cannot be overlooked.

Whether it be the few short seconds as we witnessed during the 1989 Loma Prieta earthquake, or the agonizing hours as we watched flames of death crawl up hillsides in Oakland, calamitous acts of God can destroy all that it has taken a lifetime to build, leaving entire communities to the arduous task of rebuilding. The statistics—individuals killed or injured, homes destroyed, families displaced, and the many other numbers used to tally such events—are always staggering.

"It was like a visit to hell at Ground Zero." That's how one resident of the Oakland Hills area described the recent fire storms that swept through California's East Bay communities. What began as a brush fire fueled by dry winds and 5 years of drought became a raging inferno consuming everything in its path. Seventy-four strike teams, each with 5 engines and over 1,000 firefighters and emergency response personnel battled this tremendous fire. Two of these valiant emergency workers, a police officer and a fire battalion chief, lost their lives in the process of serving their community.

Now its's our job to help them.

While I am pleased this bill would provide $943 million for FEMA disaster assistance programs and make good on our commitment under Federal law, I can't help but remark that this funding is long overdue. Estimates for public sector damage in the aftermath of the Oakland fires are in excess of $42 million. Moreover, the current estimate for unmet needs resulting from the 1989 Loma Prieta earthquake is $500 million.

That was 2 years ago, Mr. President.

I do, however, want to congratulate Chairman BYRD for moving quickly to bring this bill before us. On October 29, I wrote to the chairman to urge quick action for the sake of Oakland and every other disaster-stricken community. Without this supplemental appropriations bill, these communities would continue to languish without the Federal assistance due them.

Clearly, after such traumas, we can never expect to make any victim of natural disaster entirely whole. In fact, Federal law does not contemplate full reimbursement for losses. Rather, the Federal Government's role and relief programs as codified under the Stafford act are designed to supplement other forms of assistance, such as homeowners and property insurance. But 2-year delays in funding, with the actual construction work still to follow, is much too long for the individuals and communities who have suffered the destruction of an earthquake, fire, hurricane, or other calamity.

Mr. President, again, I am pleased to see the money for FEMA included in this bill. I do hope, however, that in the future, we will take better care to ensure that FEMA is adequately funded in order to prevent such delays in the future.

HURRICANE BOB

Mr. PELL. Mr. President, the dire emergency supplemental appropriations bill is an important piece of legislation for my home State of Rhode Island.

In late August of this year, Hurricane Bob swept across New England. Rhode Island was especially hard hit by Hurricane Bob. The path of the hurricane and Rhode Island's small geographic size created a devastating set of circumstances that made Rhode Island the only New England State to suffer the full force of Hurricane Bob within every single square mile of the State's borders.

The Governor of Rhode Island, Bruce Sundlun, asked the President to declare Rhode Island a disaster area under Public Law 93-288. The President subsequently declared Rhode Island a disaster area, which made my State eligible for disaster relief funds administered by the Federal Emergency Management Agency [FEMA].

These FEMA funds were to be used to reimburse State and local authorities for the costs associated with cleaning up after Hurricane Bob. In many cases, these costs represent a serious financial burden for Rhode Island cities and towns. This burden is even more serious when viewed in the light of the crippling state budget deficit which Governor Sundlun inherited from the previous administration.

One example of the urgent need for these emergency relief funds can be found in the town of Jamestown, RI. Jamestown has thus far spent $200,000 in scarce town funds for Hurricane Bob-related cleanup. In a recent letter sent to me by Jamestown Town Administrator Robert W. Sutton, Jr., the need for Federal assistance was described succinctly. "The town of Jamestown is a small community feeling the financial strains of this economy and we cannot afford this unanticipated and unbudgeted expenditure. We simply do not have the money."

Mr. President, this problem faces every Rhode Island community that has been forced to bear the costs associated with cleaning up after Hurricane Bob. This dire emergency appropriations bill is badly needed in Rhode Island, and I am pleased that the Senate has approved this measure.

The next hurdle that remains is for the members of the House and Senate Appropriations Committees to get together and rectify the House and Senate versions of this bill. I am sure this will be done quickly and it will then be up to the President to decide to approve or disapprove this important legislation.

I urge the President to approve this measure when it reaches his desk. Summer has long been over in Rhode Island. It is time for the Federal Government give us the opportunity to put Hurricane Bob behind us and allow us to get ready for the trials and demands of another New England winter.

Mr. JEFFORDS. Mr. President, I did not intend to talk about the National Cattlemen's Association's attempts to block dairy legislation. However, since their recent letter has been discussed and has been read into the RECORD, I feel compelled to do so.

It is clear from this letter that the NCA intends to continue to relate statements that mislead at best, deliberately distort more likely, past events.

It is my hope and desire that the individuals representing the beef industry and the dairy industry will be able to sit down over the holidays and reconcile their differences. I am hopeful this can happen because it is clear that they both have the same interests:

Fewer cows means less milk which means a higher milk price. Fewer cows means less beef and a higher beef price.

It is clear that both the beef industry and the dairy industry benefit from efforts to control the dairy herd size. Thus, it seems we ought to be able to sit down and achieve this result without pushing any dairy farmers or beef ranchers to bankruptcy to reach that goal.

Let me first review the history of the dairy policy in the 1980's. I would also like to bring my colleagues up to date on attempts to reconcile differences between the two groups.

By 1981, dairy cow numbers had substantially increased, causing higher production levels and a buildup of dairy surplus stocks. In an effort to deal with this problem, the 1981 farm bill instituted a set of triggers relating the minimum support level to the size of the CCC purchases. This was a major departure from traditional price support policy under which price changes were tied directly to parity. In addition it used an assessment to cut cost, but at the same time gave hope for a big price bonus.

Although I was not a member of the 1981 farm bill conference committee that instituted these changes in calculating the support price, there was a fundamental problem in establishing a program that only called for price cuts based upon levels of CCC purchases. It did not deal with the basic problem that was facing the dairy industry—cow numbers—too many cows.

Following this change in the 1981 farm bill, further legislation was enacted in 1982 which froze support price for 2 years, and provided for assessments of producers totaling $1 per hundredweight to help offset rising Government costs for CCC purchases. However, history has clearly shown that

milk production levels do not respond well or quickly to price cuts, and during the period of 1981–83, cow numbers actually increased from 11.1 to 11.5 million head, although surpluses and program costs went down. But the program was successful; its period of operation was too short to have any lasting effect. The short period had to be agreed to to get any supply management program.

By 1983, dairy surplus purchases increased from about $247 million in fiscal year 1979, to a high of $2.7 billion. In response to these increased costs, Congress initiated the Milk Diversion Program, which paid farmers to reduce milk production for a 15-month period. An assessment on producers was utilized to help offset the cost of the program. This largely remedial measure did result in a reduction in cow numbers and milk production levels; however, the effect was only temporary. It did show that the combination of supply management and price cuts could be successful.

In 1985, although demand was increasing, the number of cows was increasing at a much greater rate. Thus, it was decided rather than put the whole industry into the throes of economic depression in order to bring the number of farmers down and gradually the number of cows, it would be much quicker and more efficient to reduce cow numbers by buying whole herds and slaughtering or exporting them. Since we were talking about 1.5 million cows, this obviously brought concern to the beef industry.

Representatives BOB SMITH and RON MARLENEE recognized something would have to be done to prevent an adverse impact upon the beef price, which at the time was low. Therefore, a program was worked out to help the beef industry. First, the beef promotion program was created. Second, the slaughter of dairy cows would be phased in gradually starting September 1, 1986. In addition, the dairy industry agreed to purchase the additional beef over normal culls that would come on to the market as the result of the buyout. This beef would be sent overseas to our military installations so as not to impact the domestic beef price. It also allowed for some distributions to the domestic nutrition programs but only in amounts that would not adversely affect domestic beef prices. The cost of the beef purchase program was to be paid from an assessment on dairy farmers. The calculations showed the price increase to dairy farmers as a result of this action would be more than sufficient to pay for the assessment.

The Senate bill had no such whole herd buyout. In conference, two major changes were made in the whole herd buyout program. First, the assessment was cut in half at the insistence of Chairman HELMS with the expectation that the savings to the Government would more than offset the cost of the buyout and the beef purchase program. Second, late at night during the end of the conference, representatives of the beef industry, led by Burton Eller, gained access to the staff conferees by bringing in hamburgers and other snacks. The conferees were convinced by Eller that it would be in the best interest of the beef industry to front load the slaughter program in the spring rather than to wait until the fall. This may well have been a reasonable request and might have worked. Thus the bill was changed to commence a front-loaded slaughter on April 1, 1986.

When it came time to announce the regulations and the commencement of the program in March 1986, a bad error was made by the Department of Agriculture. It announced on Friday, March 28, that the whole herd buyout would commence the following week and that the Government would commence the purchase and slaughter of 1.6 million head. They failed, however, to announce that the Government would be purchasing the excess beef off of the market, and therefore, it should have no adverse impact on the domestic beef industry.

The following Monday, after the announcement was made, a number of beef producers panicked and rushed their herds to market. Obviously, the price went down. In addition, the futures market had a flurry of activity. When I heard about it I immediately called the futures market and found that none of them knew that the Government was going to purchase the excess beef back off the market. The word of this aspect spread and the down price on beef and the futures activities ended in 2 weeks.

The beef price rebounded to where it was before this unfortunate incident. The beef price continued to rise and reached a high at year's end.

In April 1986, a lawsuit was brought by the beef industry which blamed USDA for the problem. There is no question that USDA deserved a lot of the blame. However, the beef industry has to carry some of the responsibility for not getting the word out to its producers about the new phase-in date and the red beef purchase program.

Aside from this unfortunate incident, the program was highly successful, saving the Government billions of dollars and allowing dairy farmers to go out of business with dignity instead of through bankruptcy. It does not seem that the program should be precluded now. In addition, since it would bring the size of the dairy herds down in a way that would not impact beef prices, it should be a program that is supported by the beef industry. Annual small cow or heifer purchases could keep this dairy supply under control and prevent any threat to beef prices.

It appears that somewhere in the area of $50 million was lost by beef producers who brought their beef to market during that 2-week time period. The bill introduced earlier this year offered to repay these farmers if peace between the industries could be reached. Considering the critical change to April 1, 1986, was requested by the Eller group, I believe this was most conciliatory. The National Cattlemen's Association [NCA] opposed the bill. Overall, with the two options in that bill, of exporting dairy cattle and the purchase and slaughter program combined with purchase of the beef off the market if necessary, both industries should benefit and no one should be hurt.

I strongly felt that I had done a substantial amount to address the concerns of the beef industry. A hearing was held in hope of reconciling the differences between the groups. Unfortunately, they did not desire to make peace and adamantly opposed my bill. They refused to offer help to the dairy farmers, and would not give any assistance to me in developing a plan to jointly help our farmers.

Since that time, we have tried to put together legislation that could ensure stability for the dairy farmers. We have tried a number of proposals, all of which have faced opposition. We have tried to address the concerns of the beef industry. Today we have a program which will secure stability for the dairy industry and has attempted to address all of the concerns of beef producers and others. I hope my colleagues will consider it closely and support it.

THE NEED FOR DISASTER ASSISTANCE FOR FARMERS

Mr. WOFFORD. Mr. President, I rise today to emphasize the need to provide our farmers with direct disaster payments due to this summer's devastating drought. We have the opportunity with the 1992 dire emergency supplemental appropriation bill to send a clear message to the agricultural community that we will stand by them when—through no fault of their own—they lose their crops.

During the 1991 drought, Pennsylvania has lost an estimated $600 million in economic activity. At a time when the Commonwealth is already coping with a recession, we cannot afford this additional loss. Sixty of the sixty-seven counties in Pennsylvania—more than 90 percent of the State—were declared disaster areas by the U.S. Department of Agriculture back in August. In a State where agriculture is the No. 1 industry, the loss is tremendous.

Farmers and rural communities will feel the effects of this economic loss for years to come. Many farmers will have to borrow money in order to continue operating. In many cases, they will have to struggle to repay an operating loan for a crop that doesn't exist. Agricultural lenders are deeply concerned.

But we need to be clear about what is necessary. Passing the dire emergency appropriations bill alone will not get the funds the drought-stricken farmers need. Before the funds would actually become available, the President will need to agree that an emergency has occured in order to comply with the restrictions contained in last year's budget agreement. Up until now, the President has not seen fit to declare such an emergency. He has not responded to the needs of farmers suffering as a result of the drought. I hope he will see the wisdom in acting now.

The moneys provided for in the dire emergency appropriations bill will not be every farmer's answer. For many, however, it will be the difference between staying in business and getting out. I urge its enactment.

Mr. BYRD. Mr. President, is there not a substitute that has to be agreed to before third reading?

The PRESIDING OFFICER. The Senator is correct.

Is there further debate on the substitute? If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. BYRD. Mr. President, I move that the joint resolution be read the third time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, the Senator from Virginia was seeking recognition.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Parliamentary inquiry. Is it in order for Senators to send to the desk amendments in the first degree?

The PRESIDING OFFICER. No amendments are in order at this time. The Senate has already adopted the substitute.

Mr. WARNER. Mr. President, parliamentary inquiry. Is the adoption of the substitute then a mechanism by which all amendments have now been cut off?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I was on the floor awaiting the arrival of a member of the Senate Armed Services Committee at which time I was to join with him. It was my understanding the managers were aware that was to take place. I stepped off the floor momentarily, at which time the most recent parliamentary decision by the Senate was taken. I was under the impression that the managers had asked for third reading but had deferred it to allow Senators to come to the floor and there was a period of 10 minutes. I did not know the period of 10 minutes expired. But I expect the parliamentary situation is such now that one may only speak to the bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, the distinguished Senator from Virginia was on the floor and seeking recognition.

Mr. WARNER. Yes.

Mr. BYRD. And I realize that the procedure that was followed is a rather unusual procedure here, but certainly well within the rules and precedents of the Senate. In fairness, I think that the Senator from Virginia ought to be allowed to call up his amendment.

I ask unanimous consent that notwithstanding the fact that the bill has been advanced to third reading that the Senator from Virginia be permitted to call up an amendment to the bill.

Mr. STEVENS. Reserving the right to object.

Mr. BYRD. And that consequently that amendment be open to an amendment in the second degree.

Mr. STEVENS. I shall not object.

Mr. WARNER. I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. Will the Senator withdraw his request for third reading?

Mr. BYRD. Mr. President, I do not withdraw my request for third reading, but I have asked unanimous consent that the Senator from Virginia be allowed, nevertheless, to offer an amendment. I ask that third reading of the bill be had and then the Senator may offer his amendment notwithstanding.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from West Virginia. At this time, it will not be my intention to send an amendment to the desk on this bill.

Mr. President, I understand the distinguished Senator from West Virginia has informed this Senator of my right to do so. I was going to do it in partnership with another member of the Senate Armed Services Committee. I am now advised perhaps——

Mr. BYRD. You may still do that.

Mr. WARNER. Mr. President, I do understand that, but I understand further it was the intention I was trying to reserve the right for my distinguished colleague to come forward but apparently that is not his intention at this time. As a consequence, I will perhaps have some comments to make with respect to the bill at a later time. I thank the courtesy of the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the motion to read the joint resolution the third time.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the joint resolution having been read the third time, the question is, shall the joint resolution pass, as amended?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], the Senator from Arkansas [Mr. PRYOR] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS].

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. SYMMS] would each vote "nay."

The PRESIDING OFFICER (Mr. LEAHY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 17, as follows:

(Rollcall Vote No. 270 Leg.)

YEAS—75

Adams	Exon	McConnell
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Biden	Garn	Mitchell
Bond	Glenn	Moynihan
Boren	Gorton	Packwood
Bradley	Graham	Pell
Bryan	Grassley	Pressler
Bumpers	Hatch	Reid
Burdick	Hatfield	Robb
Byrd	Heflin	Rockefeller
Chafee	Hollings	Rudman
Coats	Inouye	Sanford
Cochran	Jeffords	Sarbanes
Cohen	Johnston	Sasser
Conrad	Kassebaum	Seymour
Cranston	Kennedy	Shelby
D'Amato	Kerry	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Thurmond
Dodd	Lott	Warner
Dole	Lugar	Wellstone
Durenberger	McCain	Wofford

NAYS—17

Bingaman	Gramm	Nunn
Brown	Kasten	Roth
Burns	Kohl	Smith
Craig	Mack	Wallop
Domenici	Murkowski	Wirth
Gore	Nickles	

NOT VOTING—8

Bentsen	Helms	Riegle
Breaux	Kerrey	Symms
Harkin	Pryor	

So the joint resolution (H.J. Res. 157) was passed, as amended.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

The title was amended so as to read:

Joint resolution making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate insist on its amendments to House Joint Resolution 157, request a conference with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees on the part of the Senate; and that the motions to reconsider these actions be laid upon the table.

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

The PRESIDING OFFICER (Mr. LEAHY) appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON conferees on the part of the Senate.

Mr. GLENN. Mr. President, due to the rapid passage of this legislation, I regret that an amendment I would have proposed will not be considered.

Mr. President, my amendment would have had the effect of: First, prohibiting a mandated, noncompetitive extension of the current CHAMPUS reform initiative [CRI] contract; and second, prohibiting a mandated expansion of the CHAMPUS reform initiative.

Mr. President, the CHAMPUS reform initiative is a contract for the delivery of civilian medical care to the families of military personnel and military retirees and their eligible dependents in the States of California and Hawaii. The annual cost of the contract to the Department of Defense is about $800 million. The current 5-year contract expires on February 1, 1993, and the Commerce Business Daily has announced DOD's planned issuance of a new request for proposal [RFP] for another 5-year contract to be awarded competitively.

At the same time, the current contractor for CRI, Foundation Health Corp., located in California, has been lobbying for the noncompetitive extension of the contract.

Mr. President, I want to say that I do not fault the current CRI contractor for wanting a noncompetitive extension of the existing contract. Obviously, the contract must be profitable, otherwise the company would not want to continue to be the CHAMPUS intermediary.

I want to also say that our CHAMPUS beneficiaries have expressed general satisfaction for the health care services they have received under CRI, and I for one, believe that CRI should continue to be the mode of civilian health care delivery for CHAMPUS beneficiaries in California and Hawaii.

So I am not opposed to CRI. In fact, I think CRI has proven to be not only effective from the standpoint of patient satisfaction, but in holding down cost. And depending on cost/benefit analyses, a case could be made for the expansion of CRI to other States.

Mr. President, my problem is not with the concept of CRI, but with the procurement of CRI services as proposed in the Defense appropriations conference report.

Mr. President, the Defense appropriations conference report contains a provision that would noncompetitively extend the current CRI contract for 1 year. This particular provision would overturn a provision in the Defense authorization conference report we just passed that would ensure that the CRI contract would be renewed competitively. Quite frankly, the action we took in the Defense authorization conference report was in reaction to a provision in the House Defense appropriations bill that would mandate the noncompetitive extension of the existing CRI contract.

Mr. President, our Senate appropriators initially supported the authorization conference provision, but eventually gave in to the House appropriators in conference. I find this very disappointing because the Senate and House had already voted against such a flagrant disregard of fair procurement policy.

Mr. President, current Federal procurement statutes require competition for the award of Federal contracts. Federal agencies may "sole source" only under very limited circumstances that are specifically prescribed in law. Obviously, the Department of Defense saw no circumstances that would lead it to "sole source" because it has already announced its intention to issue an RFP for competitive bid.

If we allow a noncompetitive 1-year extension of the current CRI contract, we would be turning a blind eye to the Competition in Contracting Act and the Federal acquisition regulations. We would be singling out for special treatment a company that happens to be in the district of a senior member of the House Appropriations Committee. In doing so, we would be excluding other companies who may be equally or competent in providing the needed services.

Mr. President, aside from fairness, there is the issue of cost. Requiring a noncompetitive extension of the current CRI contract could potentially cost taxpayers millions of dollars. There are other companies who could compete for, and possibly win, a competitive contract that could result in lower cost and equal or even better health care delivery to CHAMPUS beneficiaries.

Mr. President, for these reasons, I regret that my Senate colleagues will not have the opportunity to vote in favor of fair and open competition, by voting for this amendment.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

INVESTIGATORY POWERS AUTHORIZATION

Mr. MITCHELL. Mr. President, pursuant to a prior order, following consultation with the Republican leader, I was vested with the authority to set a cloture vote on a motion to proceed to Senate Resolution 198, to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the United States hostages in Iran.

I now ask unanimous consent that there be 1 hour of debate equally divided and controlled between Senators SANFORD and MCCONNELL and at the conclusion or yielding back of that time, the cloture vote occur.

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

Who controls time under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. May I inquire: Does the leader care to make any additional comments?

Mr. MITCHELL. Mr. President, I will be making a statement shortly. I suggest the Senator proceed and then yield time to me.

Mr. SANFORD. All right.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina, and the Chair again would ask who yields time?

Mr. SANFORD. I yield myself 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from North Carolina is yielded 5 minutes.

The Senator from North Carolina.

Mr. SANFORD. Mr. President, the U.S. Congress has an oversight obligation to represent the people in making certain that their National Government is being operated effectively and appropriately and within the bounds of the law. The duty falls to the Congress

to examine serious allegations of extraordinary wrongdoing within the Government process.

There is no simple way for Congress to carry out those obligations. It can, and has, created a process for the employment of a special counsel within the structure of the administrative branch. The legal complexities, the political conflicts, the difficulties of focus and direction by Congress, and the high investigative costs make this less than satisfactory.

Congress can and has created special investigative committees to conduct public inquiries, but this approach is fraught with the inefficiencies of partisan differences.

Standing committees and subcommittees have been assigned investigative tasks, and most effectively when that assignment is made by full Senate resolution. This is the approach chosen by the Senate leadership in responding to the persistent charges that unwarranted and illegal actions were taken to delay the release of the Americans who had been taken as hostages from our Embassy in Iran.

The Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs was asked by the majority leader to take responsibility for inquiring into these old but enduring charges that the Reagan-Bush presidential campaign engineered the delay of the release of the hostages in Iran for political advantage and that in exchange they would provide what turned out to be, if it were true, illegal transfer of military equipment to the Iranian Government.

The ranking member of the subcommittee, Senator JEFFORDS, and I did not volunteer for this assignment. We accepted it as a duty to lay to rest, as true or false, these allegations of extremely heinous actions.

In accepting this unpleasant task, neither Senator JEFFORDS nor I bring any presumption of the truth of the allegations. Certainly, for my part, I hope we can quickly demonstrate that there is no factual basis for the charges.

But it is the Senate that must decide whether it wants to proceed, and if so, it must be the Senate that enacts this resolution empowering the committee to subpoena witnesses and documents and to take evidence under oath.

While the committee might proceed without such a resolution, and that might be the only path, the sounder policy is to make this inquiry a function of the entire Senate.

Mr. President, during the past 2 days we have examined three witnesses. Two were hostages who, along with fellow hostages, wrote to the President and to the Congress. We also heard from Gary Sick, adjunct professor at Columbia University, who put forward these very serious allegations in a widely read op-ed piece in the New York Times last April and who has recently written a book on the subject laying out the evidence as he sees it and, more importantly, laying out the evidence that might be obtained with official action in subpoena power.

Mr. Sick served on the National Security Council under Presidents Ford, Carter, and Reagan and is well known as an expert on the Middle East. He is a retired captain in the U.S. Navy. He has previously written a book about the fall of the Shah of Iran. He was involved in the efforts of the Carter administration to seek release of the hostages from the very beginning of the storming of our Embassy until their final release in January of 1981.

Mr. Sick very carefully set forth a series of unanswered questions, unanswered questions that seem to suggest that they deserve the attention of a serious congressional investigation, unanswered questions because answers cannot be obtained without the official authority, without the power of subpoena, without the power to put witnesses under oath. He asked some questions that seem to demand an investigation to find the answers if we are to lay to rest these longstanding charges.

For example, Cyrus Hashemi, who was apparently a participant in this action, if it took place, an international arms dealer, was the subject of very intense surveillance, phone taps, television intelligence, the most careful kind of coverage by the FBI, from the early fall of 1980 until after the inauguration in 1981 when the surveillance was suspended. This information alone might very well quickly give an indication of whether or not there is any truth to these allegations, may very quickly demonstrate that there is no real substance to be pursued.

All in all, Mr. Sick laid out about 20 such items which if we could pursue with the official power of subpoena and the congressional committee we probably could fairly quickly get the answers.

It is my belief that the honest answers to these questions can only be obtained with the power of the U.S. Congress, and it seems to me that we have that obligation.

I want to read a paragraph or two from the letter that the hostages wrote to the President and to the Congress, and I am reading from an open letter to the U.S. Congress, two paragraphs:

> For the last 10 years there have been rumors, reports, and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently, these allegations have been dismissed as unsubstantiated. But substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter.
>
> It is not appropriate to say there is insufficient proof-until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena power. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

It seems to me, Mr. President, that the Senate would be derelict if it ignored the requests from these former hostages who suffered so much while on duty on behalf of all of the people of the United States.

Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I also rise to express my belief that it would be appropriate for us to go forward. When this matter came up before the committee, I did not vote in favor. I voted "present" because at that time I did not have sufficient information upon which I could make a judgment as to whether or not it would be worth the Senate's time and money to proceed forward in this particular investigation.

I must say that I have had tremendous cooperation from the Senator from North Carolina. I have absolute confidence that he agrees with me that we must do everything we can to ensure that we keep matters under control and that nothing goes forward unless we have sufficient evidence that would warrant something other than the kind of investigation we intend to hold. Our task is to find out whether there is sufficient evidence out there, after the appropriate use of subpoenas and the powers of congressional testimony, to determine that a full investigation should go further.

On August 5, the majority leader announced that the Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee would be asked to conduct an investigation into allegations that officials of the 1980 Reagan Presidential campaign attempted to delay the release of the United States hostages in Iran.

As the chairman and ranking member of the subcommittee, it fell to Senator SANFORD and me to decide how such an investigation, if ordered, should be conducted. While neither of us had requested the task, we both agreed that if the full Senate approved the investigation, it should be carried out in a professional and nonpartisan manner.

We agreed that any staff would work under our joint jurisdiction and that all decisions would be made jointly by myself and the chairman. We both believe that such an investigation should be conducted with as little fanfare as possible. If an investigation begins, no statements would be made to the press until the subcommittee is prepared to releast its findings. We do not intend

to hold public hearings in the course of the investigation, and only after its conclusion if the subcommittee should decide they are necessary.

Mr. President, the intensity and persistence of rumors that there was an attempt to delay the release of the hostages have brought us here today. In an effort to determine the nature and extent of the allegations, the Subcommittee on Near Eastern and South Asian Affairs held two hearings, yesterday and today, with two Americans who were held hostage in Iran and with Dr. Gary Sick, author of "October Surprise." Mr. Steve Emerson, author of the New Republic article "What October Surprise?" declined to testify. Our task was to determine if there is probable cause to warrant a more thorough and exhaustive investigation.

In the course of preparing for and conducting these hearings, I became convinced that there is a need to clear the air on this matter. President Bush and President Reagan both want it put to rest. Several of the hostages have spoken out about their need to resolve the question of whether they were unnecessarily detained in captivity. But more importantly, my analysis of the evidence presented to the subcommittee leads me to conclude that a relatively short investigation by our subcommittee could either lay to rest one of the central allegations of the October surprise or prove that insufficient evidence exists to resolve the issue beyond a reasonable doubt. Either way, the investigation would have performed a useful function in a brief period of time.

In my mind, the key element in the October surprise theory is the allegation that William Casey, Ronald Reagan's 1980 Presidential campaign manager, met with representatives of the Iranian Government in Madrid in late July and again in August 1980 to discuss the possibility of a deal to delay the release of the hostages in Iran. Dr. Sick lays out in his book a detailed account of these meetings as relayed to him by an individual who claims to have been present. This individual insists that an agreement was reached whereby the hostages would be released on the day of the inauguration in exchange for shipment of ammunition and military spare parts. He also claims that in addition to Casey and himself, five other people were present at each meeting.

In addition to questioning several of these participants, an investigation could pursue several other areas of information and related sources to determine whether such a meeting actually took place. Because of the limited scope and time of the inquiry and the relatively small number of people in question, I did not believe that such an investigation, properly staffed, would take more than a few months. After that time, it should be possible to conclude either that the meeting did or didn't happen, or that evidence no longer exists to prove anything.

If the preponderance of the new evidence should indicate that no such meetings took place, the matter would be put to rest. If, on the other hand, hard evidence should come to light that indicated a deal between Mr. Casey and the Iranians had been struck, then the entire investigation would probably be handed over to proper law enforcement officials. If the Iran-Contra investigation taught us anything, it was that a congressional investigation should not proceed where only the Justice Department or law enforcement officials should tread. And if the investigation concluded that there wasn't any conclusive evidence to be had on this question, then as much as could be done by this subcommittee would have been done and much of the public hype over this scandal would die and hopefully the matter would be put to rest.

As the ranking minority member on this subcommittee, I take very seriously my responsibility to see that all persons are treated fairly, that the tough questions get asked and the proper leads are pursued. I am confident that a short, professional and nonpartisan investigation could finally put this nagging scandal to rest.

I am concerned, as a member of the minority, that if we do not do so at this time, then this matter will linger on as a public issue continually in question. And it may very well be that someone may attempt to take political advantage of it as we move into the election next year. So I would urge the Members on this side of the aisle not presume at this stage that there is any intent to do anything other than search for the truth.

I urge a yes vote on the motion to invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the concern of the Senator from Kentucky is that the only October surprise envisioned in the investigation is the October 1992 surprise. This issue has already been considered by the Tower Commission by the House and Senate Select Committees on Iran-Contra, by the independent counsel, and by the Senate Intelligence Committee.

The congressional Iran-Contra investigation has already cost the taxpayers millions of dollars, with 50 staffers fanning out across the country looking for information to corroborate allegations by the press.

The majority report of the Iran-Contra Committee concluded—this is the majority report, Mr. President—the majority report of the Iran-Contra Committee concluded:

> Reagan campaign aides were approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected, and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

Mr. President, that is a quote from the majority report of the Iran-Contra Committee.

Mr. President, some now claim that the October surprise issue was not given adequate consideration in the Iran-Contra investigation. Well, the truth is that these allegations were not considered worth investigating any further.

Further, Congress was not the only institution to make that rational determination. The independent counsel has been hard at work since December 1986, costing taxpayers $27 million—and counting—with 38 people looking for evidence of Presidential wrong-doing. Five years later the cases against North and Poindexter have been summarily dismissed. The independent counsel could not prove what some people want to prove.

If there is any institution and it is now an institution, in Washington that is always on the prowl for new scandals to justify its existence, certainly it is the independent counsel. Yet even the independent counsel—with no limits on its terms, time, or issue jurisdiction—has found no reason or evidence to justify an investigation of the October surprise story.

The Tower Commission also reviewed many of the allegations we are about to hear—and as if that were not enough, the Intelligence Committee shoveled through this heap during the Gates confirmation hearings.

None of these investigations—conducted by able people from both sides of the aisle—has proven what some people still want to prove. Even the press is not buying this nonsense. In the last few weeks, both Newsweek and the New Republic have laid waste to these ridiculous allegations, the Newsweek piece of October 1 and the New Republic piece of the same week.

One, the New Republic, entitled "What October Surprise?" And in the Newsweek, "The October Surprise, the Charge, Treason; the Evidence, Myth." The evidence, myth. They laid waste to these allegations, charge by charge and line by line.

I happen to have caught the two reporters, the two principal reporters in each of the magazines on the Fox Morning News a couple of weeks ago. They were laughing about this. They said this is absurd. They said we can save the Congress the $600,000; just read the articles. Just read our articles.

Someone made reference tonight to the fact that one of the reporters did not want to appear before our committee, not because he was reluctant to tell what he thought had happened. He

had already done that. But because he thought it was inappropriate to be appearing before a congressional committee as a reporter.

These reporters have said, in effect, we can save the taxpayers $600,000 that some people want to spend, by just reading the articles. And they are available for any Senators who would like to read them. In fact, this whole October surprise story really belongs in the National Enquirer, Mr. President. I can see the headline, "Gary Sick Sees Reagan Meet Iranian Officials and Big Foot." Or, "Elvis is Key Witness in October Surprise Investigation."

That is about what this amounts to, Mr. President. Yet we are seriously contemplating, apparently, spending $600,000 to investigate something that happened 11 years ago and did not, in fact, happen at any time.

Yesterday, the subcommittee heard from two former hostages on this issue. Both of them are courageous Americans, real patriots. But the truth is that they do not know anything more about these spurious charges than anyone else. And they were both honest and decent enough to admit it. Just yesterday, Charles Scott, one of the hostages who appeared said, and this is a direct quote:

> I have no firsthand knowledge from the point of view of whether or not there was an October Surprise. * * * I don't know if it happened or not.

Barry Rosen admitted that his suspicions arose entirely from "reading pieces of work that have been done by * * * Christopher Hitchins or Gary Sick and others." We spent an entire day yesterday talking to two wonderful Americans who endured great pain but could lend nothing to the inquiry, in terms of facts about whether this October surprise could have occurred. In other words, the hostages' knowledge of whether the October surprise story really happened is no greater than that of anybody in this body. Frankly, probably less.

I would also like to know this. We heard from two hostages and received a letter on the subject from a total of eight hostages. How do the other 46 hostages feel about it? We did not hear from them. We do not know how they feel about it—46 former hostages said nothing about this issue.

So where does that leave us today? Millions of dollars later, we are still poring over uncorroborated allegations of witnesses who are relying on hearsay, gossip, innuendo, and even outright lies of incredible scandalmongers.

Consider some of those who have spun this conspiracy web: Barbara Honegger. She apparently worked for the Reagan campaign—or should I say someone calling herself Barbara Honegger worked for the campaign. After all, she publicly admits to making decisions based on little voices that contact her. She may be qualified to discuss the paranormal and parapsychology which she pursued a masters in—but the question is whether her opinions are reliable. Maybe we should find out the source of her channeling and call him or her as a witness. That would be a great story for the National Enquirer.

We do not need to look far because she claims one of her sources is the notorious Richard Brenneke, well-known liar before the Foreign Relations Committee.

Mr. Sick has called Brenneke a man of courage for pursuing his misguided convictions. Our committee called him what he is: a liar. His stories change so fast, it's impossible to keep up.

But the very premise of Brenneke's fabrications is his claim to have worked for the CIA—a claim the CIA publicly denies.

In fact, in a memo we relied on in earlier Foreign Relations Committee proceedings, the CIA felt so strongly about Brenneke's fantastic fabrications that they departed from their historic practice of neither confirming nor denying employment and denounced Brenneke as a liar.

But it is not all Brenneke and Honegger's fault. They relied on sources at the Executive Intelligence Review. That is run by Lyndon LaRouche.

The last I checked, Executive Intelligence Review firmly believes that the Queen of England and Henry Kissinger conspire in international drug trafficking. In other words, they print the stories that the National Enquirer will not touch.

Next we have the ex-President of Iran, Bani-Sadr. By my count, his story has changed at least five times. He claims his memory improves with time. I think the only thing that improves is his Nielsen ratings and the amount of time he gets in the press.

This Bani-Sadr is the same who said that Jimmy Carter and his NSC adviser Brzezinski conspired with Saddam Hussein to invade Iran and restore the monarchy.

So if you believe his allegations about a secret Reagan campaign deal, why not swallow the whole pig in this perjurious poke?

Ben-Menashe is the last major player in this game of liar's poker. According to the ranking member of the Intelligence Committee, Senator MURKOWSKI, the committee found his story totally unbelievable. Then again, strange things happen to your imagination when sitting in a Federal prison for illegal arms deals.

Now let us look specifically at the ringleader of this conspiracy cabal: Gary Sick. I was simply astonished by Mr. Sick's revelations today before the subcommittee. Gary Sick said he relied on six sources to confirm that a key meeting took place launching the October Surprise. Among these six sources, there was only one supposed eyewitness—Jamshid Hashemi—an indicted arms dealer. And we have no proof other than Hashemi's word that he was there. The only other possible witness, Mr. Casey, continues to be unavailable for comment.

None of the five corroborating witnesses that Sick used were at this elusive meeting. In fact, most of them are Hashemi's partners in crime.

We have already talked about convicted arms dealer Ben Menashe. Menashe was not there but told Sick that he read about the meeting in intelligence cables. We asked Sick if Menashe had given him a copy of these cables—well, of course he had not.

The second corroborating witness is Admiral Madani—a close friend of Hashemi, whom Hashemi promoted for President over in Iran. Madani was not at the meeting—but if his friend said the meeting happened, then it must be true.9

That is the logic there.

Mr. President, the next witness Sick relied on was an arms dealer named Durrani, a Pakistani. But he also was not at the meeting. Sick never actually spoke with Durrani personally but heard about him from journalists.

The fourth corroborating witness was a Mr. Rupp. Rupp is a close friend and associate of Richard Brenneke, whom we have already discussed. Even Sick must have felt a little queasy about Rupp because he could not bring himself to interview Rupp but relied on hearsay from some unidentified journalist's account.

Finally, Mr. President, the last corroborating witness to Hashemi's eyewitness account is a Mr. Babayan. Mr. Babayan was not at the secret meeting either and Sick never actually spoke to Mr. Babayan either.

So, Mr. President, these are the sources on which we are going to bet hundreds of thousands of taxpayer dollars for an investigation of their wild and unproven allegations.

I have to wonder what the Senate and the world is coming to when we base decisions on how to spend large amounts of taxpayers' money on the ravings of channelers, liars, felons, and flat out flakes. Millions of dollars and years of investigative work later there is still no serious evidence today about the "October Surprise" that was not available to congressional committees, the independent counsel, and the Tower Commission.

Even the former hostages who testified yesterday could offer no factual basis for this inquiry to proceed. Both of them admitted to no firsthand knowledge. In fact, both described their conditions as total isolation and a communication vacuum.

The facts, Mr. President, we need facts. We have none. What does the other side want to spend to investigate this collection of wild, unsubstantiated allegations?

Let us start with travel: $40,000 is budgeted at a time when the voters are fed up with congressional junkets. Yet the committee will be jetting around the globe looking for more lost clues. We ought to call this expense "Air October" or better yet "Air Sick." Then we have $400,000 for more staffers. Just what Congress needs, a few more staffers. And we have a budget item of $72,000 for consultants. There is even $15,000 budgeted for special stationery. Why in the world are we spending $15,000 for "October Surprise" stationery. That will be a real keeper for the archives. I am surprised there is not a budget item for "October Surprise" T-shirts or coffee mugs.

Add all of this on top of the nearly 70 staffers and a $3 million budget that the Foreign Relations Committee already gets. Voters all across America, and even Democratic leaders are saying we should pay more attention to domestic problems and issues. So what does this resolution propose? That we give more tax dollars to the Foreign Relations Committee to investigate some wild ravings, wild ravings about foreign affairs that supposedly happened more than a decade ago.

If the voters want any proof that Congress does not understand or respond, this resolution is absolute convincing proof.

Some say we should pursue this just to lay it to rest once and for all. Mr. President, with that rationale, then why not investigate all the persistent allegations of vote buying by Democrats in the 1960 Democratic Kennedy campaign? Why do we not lay that to rest?

Frankly, Mr. President, we will never lay this to rest until we lay the President to rest. There will always be conspiracy-minded partisans who, for a buck or for a book contract, will be willing to smear the President and those around him. I think the taxpayers and our country have suffered this partisan witch hunt long enough. Sooner or later our constituents are going to think that the United States and U.S. Senate stands for unending scandals. It is time to bring the scandalmongering to an end, Mr. President, before our scandalmongering becomes itself a scandal.

As I said, the only "October surprise" envisioned by this investigation is an October 1992 surprise. I think it is entirely inappropriate to proceed with this resolution. I certainly hope cloture will not be invoked.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. McCONNELL. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. I thank the Chair, and I thank the Senator from Kentucky especially for what he just said. From time to time, Mr. President, it is becoming difficult to hold our heads up and call ourselves Senators. One really wishes maybe by now we might be to the point where Gilbert and Sullivan could relieve us of the unending pain of what we are doing to ourselves.

Fortunately, the Senator from Kentucky spoke with wit and made light of some of the idiocies and the ironies that are upon this. And my friend from Rhode Island also has wit. And I know him to be a friend, but this is not worthy of his committee.

What we are faced with here tonight is silly, it is petty, it is political and the country cannot stand all that. They have watched us be silly and petty and political and they watched us make fools of ourselves and they are used to it.

But what the country should not have to do is what the Senator from Kentucky just pointed out that they are going to have to do, should this resolution pass, is pay hundreds of thousands of dollars to prove what they already know to be the case. There is absolutely nothing that substantiates any kind of venture such as this. No doubt, no unusual kinds of things that sit in the bank, nothing.

What the public's interest is, besides a sort of prurient kind of current affairs type of interest is, I assume, what we do to ourselves. The public knows. The public has spent its hard-earned money learning this already. Why they should say that we are behind the expenditures of more funds to play political party games is beyond me. We are looking at trying to find some kinds of reasons for two failed Presidents, that of Bani-Sadr and that of Jimmy Carter.

I say to my friend I thank him for having wit. I find myself without any tonight as I look at what I am asked to vote on in behalf of the public that we all serve.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I yield 2 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I will speak briefly. First of all, I want to commend my friend from Kentucky for the very scholarly presentation he has made. As a member of the Foreign Relations Committee, I followed this debate and approached it with an open mind and there is absolutely nothing there to investigate.

Several of our national publications have completely blasted this theory. We are in a situation where we are wasting money. It is an absurd proposition. I could repeat many of the arguments that Senator McCONNELL has made, but I shall not do so except to say that as a member of the Committee, as one who has looked over the various documents and heard the testimony, this is something the Senate should not do, and I shall vote against it with a very firmly held conviction.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. I yield myself 30 seconds, simply to set the record straight. I am not going to attempt to answer.

The Tower Commission formed by President Reagan did not look into the 1980 allegations. The Iran-Contra committee did not investigate the allegations, had a simple footnote. The independent counsel, like the Iran-Contra Committee, was limited to the period of time covered by the Boland amendment, so they did not cover it. The truth of the matter is the October surprise has never been investigated by an official body and that is the reason we need to have the kind of investigation that can put people under oath.

Now, Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. I thank my distinguished colleague from North Carolina. I thank the chairman of the committee for his patience. I shall only take 2 minutes.

I commend the Senator from North Carolina for his initiative in sponsoring this resolution. Indeed, this matter has not previously been investigated except by a number of prominent investigative journalists who have laid on to the public record sufficient facts to raise very troubling questions about what did occur.

I have taken note of the reports by other journalists who have sought to debunk the theories put forward by Mr. Gary Sick, by Nightline, by Front Line, and others. But, Mr. President, more than sufficient evidence remains on the public record to warrant the kind of inquiry that the resolution before us would authorize.

Much has been made about the nature of some of these characters who have spoken out as part of these investigations. It is a fact that the kinds of people who are sought out as intermediaries in the sort of deal that is alleged here are frequently people of slippery reputations. The fact that those reputations now are used to indict what they are saying is perfectly fair, but they were not chosen by those who wished to investigate this matter as witnesses because of their reputations. They were chosen because they were the people who were sought out allegedly as intermediaries.

I believe that the evidence remaining, which has not been rebutted, is sufficiently powerful and credible to

warrant not a presumption of any guilt of what has happened but a presumption that it does deserve to be looked into.

I shall vote for this matter, and I commend my colleague from North Carolina.

Mr. SANFORD. I yield 4 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 4 minutes.

Mr. PELL. I thank the Senator from North Carolina.

As we all know, our Committee on Foreign Relations ordered reported Senate Resolution 198, the resolution to authorize and provide supplemental funds for inquiry into the allegations concerning the release of the American hostages in Iran.

The reports do keep coming up over and over again that someone may have tried to make a deal that involved delaying the release of the hostages in Iran in 1980 for political purposes. We all trust and believe that this is not correct, but the allegations keep rising, and I would think that those who are most vociferous in their opposition would really be enthusiastic if we are all equally sure that there is no fire where the smoke is.

Accordingly, it is my own view that this subject should be examined once and for all if for no other reason than the charges could finally be laid to rest, which would be a great relief to all of us, Democrats and Republicans alike.

Finally, I applaud the conscientious, nonpartisan manner in which the responsibility for this important task has been assumed by the chairman of the Subcommittee on Near East and South Asian Affairs, Senator SANFORD, and by the ranking minority member of our subcommittee, Senator JEFFORDS.

I yield the floor.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 12 minutes.

Mr. SANFORD. I recognize the Senator from Maryland, and yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I thank the able Senator from North Carolina. I commend him and the ranking minority member of the subcommittee, the very able Senator from Vermont, for their efforts to move forward on a fair and objective investigation.

Mr. President, I think the best way to start is to quote from a letter, an open letter to the United States Congress from a number of former American hostages in Iran. I now quote:

For the last 10 years there have been rumors, reports and allegations of foul play in the 1980 Presidential election. The thought that any American, whether a private citizen or Government official, may have participated in delaying release of the hostages for political gain is distressing. Until recently * * *

And this letter is dated June 13 of this year—

these allegations have been dismissed as unsubstantiated, but substantial enough information has been presented by respected and persistent investigators to warrant a thorough examination of this matter. It is not appropriate to say there is insufficient proof until there has been an official investigation. The question of whether there is evidence of any wrongdoing must be answered by an unbiased, bipartisan congressional investigation with full subpoena powers. Unless this happens, speculation and unanswered questions will erode public confidence in our electoral system.

The sort of inquiry that they are asking for has not been conducted, and that is what this resolution, which is before us, is all about. This is not, as one of my colleagues said, a silly or a petty or a political matter. It seems to me people on both sides of the aisle ought to be concerned with having a proper inquiry in order to find out the answers to these questions that have been raised.

Yesterday, before our committee, Charles W. Scott, one of the hostages, a very impressive witness said:

I'm frustrated. I want to see the thing put to bed one way or the other so we can get on with the important things that the United States has to face in the future.

And he later went on to say:

I do find it appalling though that as a private citizen, if this thing took place, the question is how far will people go to ensure that their candidate is elected to the highest and most powerful position on the face of this Earth today. And that is really the question, and that is what bothers me. I want to believe that within our constitutional framework and our electoral process that is the way people reach that highest office in the land. And I'm not saying in this case, because you have no information. In fact, you might as well know this. I voted for President Reagan in '84. I voted for President Bush in '88. So I have no political or personal ax to grind on this thing.

And he went on then, Mr. Scott, to conclude, saying,

The best shot we have to get at the answer is to go forward with this investigation.

I have heard Gary Sick put down here on the floor of the Senate tonight. All I can say to that is we have here a book, the "October Surprise," which is a very careful, reasoned book which deserves to be addressed on its own terms.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. SARBANES. It deserves to be examined.

If the Senator will just give me 30 seconds.

Sick was for 24 years an officer of naval intelligence. He served on the National Security Council, first under President Ford, then through President Carter's term, and then for a few months during Ronald Reagan's term.

The allegations which are widespread need to be addressed. They are not going to go away, obviously.

It seems to me the responsible thing to do is for the country to go forward with this inquiry, use the subpoena power, the other resources available, and try once and for all to find out the answer to these disturbing questions.

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes remaining.

Mr. MCCONNELL. Mr. President, I yield 2 minutes to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

What we have before us today is the granddaddy of all conspiracy theories—the so-called October surprise.

This theory has a life of its own. It was born amid the followers of Lyndon LaRouche, and nurtured by the enterprising investigative journalists at ABC's "Nightline" and PBS "Frontline." Now that the key sources of the theory have been thoroughly debunked, one would think we could allow the theory to die a long-overdue death. But for some reason, we undertake a Senate investigation, at a cost approaching $600,000 in order to keep it alive awhile longer, which would amount to a full employment act for a number of lawyers as well.

I have watched some of this story unfold from my vantage point as vice chairman of the Senate Select Committee on Intelligence. When some of these allegations arose during the confirmation hearings of Robert Gates, we explored the credibility of some key sources such as Ari Ben Menashe and Richard Babiyan. In doing so, we found that we could quickly dismiss them.

I was bothered, Mr. President, when we heard no retractions when ABC News finally got around to polygraphing Mr. Menashe and discovered that he was not telling the truth. Instead, they simply turned to other sources such as Jamshid Hashemi. If it is possible to find a witness less credible than Ari Ben Menashe, I think ABC News may have found one in Mr. Hashemi.

Until I saw the recent pieces in Newsweek and the New Republic, I was quite concerned that American investigative journalism was headed straight for the supermarket tabloid rack. Thankfully, some investigative journalists working for the New Republic and Newsweek directed their considerable talents toward seeking the truth, and in the process, may have helped to save the medium itself.

Here is what the New Republic said in its November 18 article entitled "The Conspiracy that Wasn't."

* * the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Sur-

prise stands up to any scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false.* * *

Newsweek, in its November 11 edition, said:

Newsweek has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply do not hold up. What the evidence does show is the murky history of a conspiracy theory run wild.

Mr. President, I ask unanimous consent those two articles be printed in the RECORD.

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

[From Newsweek, Nov. 11, 1991]

MAKING OF A MYTH

It is a story that will not die—a dark tale of conspiracy and political intrigue that, if true, would constitute something like an accusation of treason against George Bush, the late William Casey and other members of Ronald Reagan's 1980 presidential campaign. Briefly put, the "October Suprise" theory holds that Bush or Casey—or possible Bush *and* Casey—cut a secret deal with Iran in the summer or fall of 1980 to delay the release of 52 U.S. hostages until after the November elections. Their objective, or so the theory holds, was to deny Jimmy Carter whatever political advantage the hostages' last-minute release might create—or, in short, to swing the 1980 election toward Reagan and Bush.

The October Surprise theory has been kicking around for the past 11 years, and it has become a mother lode for conspiracy junkies of all political persuasions. It got its biggest boost early this year when Gary Sick, a former member of Jimmy Carter's National Security Council staff, wrote an article on the op-ed page of The New York Times asserting his belief that it could have happened. Sick, who has already written a *much praised book* ("All Fall Down") about the Iran hostage crisis, is about to publish a second book laying out his case for the October Surprise. The new book, to be published this week by Random House, is entitled "October Surprise." The Senate Foreign Relations Committee, meanwhile, voted last week to launch an investigation of the October Surprise theory, and the House Rules Committee is scheduled to vote this week whether or not to launch a separate investigation headed by Rep. Lee Hamilton of Indiana. So, true or not, the October Surprise is about to become yet another exhibit in the Beltway's chamber of Alleged Political Horrors—to escalate, along with the BCCI scandal, the Iran-contra affair and the savings and loan crisis, from cocktail-party gossip to subpoenas, sworn testimony and endless disputes among lawyers, investigators and witnesses.

Like all good conspiracy theories, this one forces all who would deny it to prove a negative—to prove that something did *not* happen. As any logician can testify, proving a negative is *ultimately impossible*. Equally disturbing, the October Surprise theory has now become complicated and so hideously detailed that no reasonable person can say with absolute certainty that there was no conspiracy and no deal. *But* NEWSWEEK has found, after a long investigation including interviews with government officials and other knowledgeable sources around the world, that the key claims of the purported eyewitnesses and accusers simply *do not hold up*. What the evidence does show is the murky history of a conspiracy theory *run wild*.

GOING MAINSTREAM: A STORY IS BORN

Washington in the fall of 1980 was, like the rest of the United States, obsessed with the U.S. Embassy hostages in Iran. It was a national crisis: public officials, the voters and the news media were grasping at every rumor. Jimmy Carter, then running for a second term, was almost completely preoccupied by obscure events half the world away; so was the Reagan campaign. In April, the Carter administration launched a desperate military gamble to extract the hostages from captivity, and failed, miserably, in the smoking wreckage at Desert One. The campaign proceeded: Carter turned back Edward Kennedy's challenge in the Democratic primaries, and Reagan dispatched George Bush. The hostage crisis, seemingly at an impasse, continued to simmer amid the hullabaloo of an election campaign. The election came and went with Carter's landslide defeat—and in December, with the hostages still held in Iran, rumors of some sort of backstage contract between the Republican campaign and the Iranian government first appeared in print.

The outlet was hardly prestigious: the Executive Intelligence Review, a periodical published by followers of right-wing political extremist Lyndon LaRouche. On Dec. 2, 1980. EIR ran a story alleging that former secretary of state Henry Kissinger, a target for LaRouche followers, "held a series of secret meetings during the week of Nov. 12 in Paris with representatives of Ayatollah Beheshti, leader of the fundamentalist clergy in Iran." This was attributed to "Iranian sources" in Paris. The article continued: "Top level intelligence sources in Reagan's inner circle confirmed Kissinger's unreported talks with the Iranian mullahs, but stressed that the Kissinger initiative was totally unauthorized by the president-elect. 'If you know any way of controlling that man,' said one Reagan insider, 'please let me know'." (Kissinger said the EIR report was "totally untrue.")

The story said that this meeting was the climax of a prior liaison: ". . . it appears that the pattern of cooperation between the Khomeini people and circles nominally in Reagan's camp began approximately six to eight weeks ago, at the height of President Carter's efforts to secure an arms-for-hostage deal with Teheran. Carter's failure to secure the deal. which a number of observers believe cost him the Nov. 4 election, apparently resulted from an intervention in Teheran by pro-Reagan British intelligence circles and the Kissinger faction."

EIR said that its source "stressed" that those involved in this effort "did not have the approval of Ronald Reagan himself." Fast-forward to 1983, when the LaRoucheans returned to the story. An article in the Sept. 2 issue of their journal New Solidarity gave more detail. "During the pre-election period, Carter and his crowd were frantically trying to negotiate a deal based on arms and spare-parts shipments, which Iran desperately needed after the outbreak of war with Iraq on Sept. 22 . . . The deal . . . fell through when the hard-line mullahs boycotted the Majlis in late October. Ayatollah Beheshti—known as the most pro-Soviet of the mullahs—was the key mover behind this."

When the story got its next boost—in an April 1987 article in The Miami Herald—it was from former Iranian president Abolhassan Bani Sadr, by now in exile in Paris. Bani Sadr "said he learned after the hostage release that two of the Ayatollah Ruhollah Khomein's advisers had been involved in negotiations with the Reagan camp. The negotiations were to delay release of the hostages until after Reagan became president . . . The former president identified the two as Hashemi Rafsanjani [now himself Iran's president] and Mohammed Beheshti." Bani Sadr said he had asked both men about this. "'They laughed.' he said. 'They didn't say no'."

The Herald's story didn't get much play. But when Bani Sadr next spoke, to Flora Lewis of The New York Times in August 1987, the story grew. With The New York Times, Bani Sadr was more specific than he had been with The Miami Herald. He said negotiations with the Carter administration had been going well. "But then in October, everything suddenly stopped. My aides found out it was because the group in charge of the hostage policy, Rafsanjani, Mohammed Beheshti and Khomeini's son, did not want Carter to win the election. There was a meeting in Paris between a representative of Beheshti and a representative of the Reagan campaign." These and subsequent events, Lewis wrote, "confirm for him persistent rumors that the Reagan campaign offered arms if the hostages were not released until after the 1980 election. . . ." The story had finally made it into the mainstream.

The timing was propitious—high summer, so to speak, for conspiracy buffs. The reason was the Iran-contra scandal, which proved that the Reagan administration had indeed engaged in secret dealings with Iran. Although the exact starting point of those secret negotiations remains obscure to this day, it seems clear that the roots of Iran-contra run deeper than anyone has been able to document publicly. The Reagan White House, it seems clear, was obsessed by Iran during the early 1980s. Iran-contra also showed that the administration was eager to engage in covert action, and that it was ready to lie, destroy documents and cover up a range of covert activities that violated the law.

Contragate, in short, created fertile ground for the October Surprise theory. Reporting in November 1987, the joint investigating committee created by the House and Senate relegated the October Surprise rumors to a footnote. "There have been allegations that officials of the 1980 Reagan campaign—in order to prevent a pre-election announcement. by President Carter (an 'October Surprise')—met with Iranian emissaries and agreed to ship arms to Iran in exchange for a post-election release of hostages," the report stated. "Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian emissaries about potential release of hostages, as were other campaign staffs. The committee was told that the approaches were rejected and found no credible evidence to suggest that any discussions were held or arrangement reached on delaying release of hostages or arranging an early arms-for-hostages deal."

It is likely that the October Surprise would have died somewhere in late 1987, except for the appearance of a group of apparently knowledgeable, conspiracy-minded "super-sources." Journalists are vulnerable to the lure of a super-source—another Deep Throat, someone who knows all and pieces everything together in a nice, neat package. In the October Surprise case, there are four would-be Deep Throats: Barbara Honegger,

Richard Brenneke, Jamshid Hashemi and Ari Ben-Menashe. At some point each has claimed first-person knowledge of the conspiracy. The stories they told overlapped in broad outline—and in some cases, they compared stories, swapped details and helped each other become more convincing. Journalists committed to the notion of the October Surprise often acted as a conduit between them.

Barbara Honegger: Honegger was a researcher in Reagan's 1980 campaign and worked at the White House and the Justice Department until 1983. In summer of 1987, Honegger claimed that in late October 1980, in the Reagan campaign headquarters in the Washington suburb of Arlington, she had heard a jubilant staffer say, "We don't have to worry about an October Surprise. Dick cut a deal." Dick, presumably, was Richard Allen, the Reagan campaign's top foreign-policy adviser and subsequently Reagan's first national-security adviser. It was the first confirmation from inside—a bull's-eye for the conspiracy theorists and the journalists who were following their trail.

But there were several problems. The most basic was that Honegger was never able to identify this alleged staffer or say whether she had any reason to believe the staffer knew what he was talking about. The second was that Honegger, who published a book, "October Surprise," in 1989, herself seemed to have some difficulty in separating fact from fiction. Even Christopher Hitchens, a columnist for The Nation magazine and a sometime proponent of the October Surprise theory, said her expose was "diffuse and naive."

Richard Brenneke: A businessman from Portland, OR, Brenneke claims to have worked for the CIA for 18 years as a contract operative. He met Honegger in August 1988 in Washington, where she told him about her theories on the October surprise. Brenneke, astonishingly enough, claimed he had been present when the deal was done. He said the meeting had taken place in Paris, at the Hotel Raphael, on Oct. 19, 1980. And Brenneke confirmed what Honegger already thought: William Casey, then Reagan's campaign manager and later CIA director during Iran-contra, had represented the Reagan-Bush campaign. Donald Gregg, then a member of Jimmy Carter's National Security Council staff and later a national-security adviser for Vice President Bush, had been there, too. The Iranians were two arms dealers, Manucher Ghorbanifar and Cyrus Hashemi.

Then, two weeks later, Bani Sadr expanded his previous story. In Playboy magazine, Bani Sadr made the most surprising charge so far—George Bush was also present in Paris. (In a scathing story on the October Surprise, The New Republic reported last week that Bani Sadr has now retracted his claim that Bush was present.) Brenneke said he, too, could confirm that Bush was in Paris—and he said so, under oath, in Denver on Sept. 23, 1988.

Brenneke was testifying on behalf of Heinrich Rupp, 58, a pilot and gold dealer who had been convicted of bank fraud. Rupp was an old friend, Brenneke said, the two had been involved in covert ops for the CIA. Brenneke gave senstational testimony. He said he had worked for the CIA for 18 years, until 1985. He said that on Oct. 19, 1980, Rupp had flown "Mr. Bush, Mr. Casey, and a number of other people to Paris, France, from the United States for a meeting with Iranian representatives." Brenneke said he had been directly involved in one of what he said were three meetings with the Iranians. He listed the Americans present as Bush, Casey, Donald Gregg and Richard Allen. He said the Iranians included Hashemi Rafsanjani, who was then speaker of the Iranian Parliament and now president of Iran, and Cyrus Hashemi.

Brenneke's testimony made news—and among those who read it, with mounting fury, was the investigator from Sen. John Kerry's subcommittee, Jack Blum. Blum had spent thousands of hours checking what Brenneke had told him and had begun to believe that Brenneke was a fraud. The final proof, for Blum, came when he read Brenneke's assurance to the judge in Denver. "I will say, your honor, I have made these statements to Senator Kerry's committee and the United States Senate—again, under oath. . . ." Blum knew that was not true Brenneke had never mentioned any involvement in the October Surprise. Blum pressed the U.S. attorney's office in Denver to file perjury charges, and Brenneke was indicted in May 1989.

The trial, in April 1990, pitted Brenneke against the U.S. government—and the government lost. Donald Gregg, now U.S. ambassador to South Korea, testified he had not been in Paris on Oct. 19 or 20, 1980. Two of Casey's former secretaries said he had not been out of the country at that time. Two Secret Service agents said they were guarding Bush on the campaign trail when the meetings allegedly took place. A CIA records specialist said there was no trace that Brenneke had ever worked for the agency. But the government's case was sloppy, and Brenneke's lawyers played on the jury's doubts so skillfully that Brenneke was acquitted. In the process, he said he never meant to testify that he had actually seen Bush in Paris—only that he had been told Bush was there.

Ari Ben-Menashe: Ben-Menashe first surfaced as an October Surprise source in 1990, while he was being held in a federal prison in New York City on charges of attempting to sell U.S.-made military transport planes to Iran. Tried in October, he was acquitted after maintaining he had the secret approval of both the Bush administration and the Israeli government. Although Israeli officials deny it, Ben-Menashe claims he was an Israeli intelligence agent and an adviser to Prime Minister Yitzhak Shamir.

Like Richard Brenneke, Ben-Menashe has been interviewed many times by journalists looking into the October Surprise (NEWSWEEK, Nov. 4). Ben-Menashe says he, too, was in Paris on Oct. 19-20, 1980, as a member of a six-person Israeli team that helped set up the meeting. He says he saw Bush and Casey there, and that they were accompanied by Robert Gates, who is now George Bush's nominee as CIA director. He says the Iranian delegation was led by the Ayatollah Mehdi Karrubi, not Cyrus Hashemi and Manucher Ghorbanifar. He told NEWSWEEK that the meeting took place at the Hotel Ritz, not the Raphael or Crillon as Richard Brenneke claims; he also told another investigator, Israeli author Shmuel Segev, that the meeting was held at the Hotel George V. ABC News gave Ben-Menashe a lie-detector test in November 1990; according to Christopher Isham, an ABC producer, Ben-Menashe failed it.

Jamshid Hashemi: Jamshid Hashemi is a younger brother of Cyrus Hashemi, an Iranian arms dealer who died in London in 1986. Jamshid has been a source for ABC News and for "Frontline," the PBS documentary program. He claims that he, his brother Cyrus and Karrubi met William Casey in a hotel in Madrid in July 1980, to begin negotiating a secret deal with the Reagan-Bush campaign. There is at least some corroborating evidence for this claim. For one thing, knowledgeable officials agree that Cyrus Hashemi played a minor role during the hostage crisis—offering to help establish communications between the Carter White House and Iranian leaders. For another, as ABC-News reported, the register at the Madrid Plaza Hotel actually shows that "A. Hashemi" and "Jamshid Halaj" were registered as guests at the time in question, late July 1980.

MEETINGS AND MIXED MESSAGES

There are, of course, myriad further details to these shifting and mutually contradictory allegations. But the essentials are clear. There were two sets of meetings, the first between Karrubi, the Hashemi brothers and William Casey in Madrid, and the other in Paris in October. The second meeting involved either Casey and Gregg—or Casey, Bush and Gates—on the American side. On the Iranian side, depending on which "witness" is believed, it involved either Cyrus Hashemi and Manucher Ghorbanifar or the Ayatollah Karrubi. Bush, Gates and Gregg have all denied that they were in Paris on those dates, and that they ever tried to arrange a deal with any Iranian leaders. Casey is of course dead. So is Cyrus Hashemi. Ayatollah Karrubi has denied ever visiting Madrid.

A team of NEWSWEEK correspondents has spent much of the past eight weeks exploring the evidence for these allegations. The NEWSWEEK team believes that:

Casey did not go to Madrid: Jamshid Hashemi told his story at length to PBS's "Frontline" series in April and to ABC's "Nightline" in June. He would not appear on camera for either program, and he did not reply to NEWSWEEK's requests for an interview. He alleges that in March or April 1980, Casey made contact with Cyrus and himself while the pair were on a visit to Washington. Casey, he says, wanted to establish contact with an Iranian who was close to Ayatollah Khomeini. The brothers agreed to act as go-betweens. The meeting took time to set up, but in July, Cyrus asked Jamshid to bring the Ayatollah Karrubi from Teheran to Madrid to meet with Casey. According to Jamshid, Mehdi Karrubi arrived with his brother Hassan.

They talked with Casey over two consecutive days, Jamshid says—two morning sessions of some three hours apiece. Then in August, Jamshid says, there was a second meeting between Casey and Karrubi, also in Madrid. After an exhaustive search of press reports, of Casey's diaries and of the diaries of his colleagues, ABC's "Nightline" reported that there was a three-day window—July 27, 28 and 29—during which Casey's whereabouts were unknown. On the 30th, ABC reported, Casey was being interviewed by an ABC correspondent at Reagan campaign headquarters and dined that night with Bush in Washington.

But Casey's whereabouts during the July "window" are convincingly established by contemporary records at the Imperial War Museum in London. Casey, it turns out, took a three-day breather from the campaign to participate in the Anglo-American Conference on the History of the Second World War. As a veteran of the Office of Strategic Services—the forerunner of the CIA—Casey delivered a paper on OSS operations in Europe during the war. He went to a reception for conference participants on the evening of July 28, and he was photographed there. He delivered his papers on the morning of July 29.

ABC News acknowledged these facts in an update later in June—but still maintained that Casey had enough time on July 27 and 28 to fly to Madrid to meet with the Iranians. A close examination of the conference records by Newsweek, however, demonstrates that Casey in fact was present at the conference sessions in London on July 28. Historian Jonathan Chadwick, who organized the conference, kept a precise, day-by-day and session-by-session record of who was present and who was not. According to Chadwick's records, Casey was present at 9:30 a.m. on the 28th, stayed for the second morning session, leaving after lunch and returning at 4 p.m. He was also present, of course, on the 29th, when he delivered his paper. "I was very excited that such a big man was coming, but it turned out to be a disappointment," Chadwick said. "He just talked it through in a very gravelly voice. He came over as a very tough sort."

There are records showing where Casey slept and ate as well—at the Royal Army Medical College, close to the Imperial War Museum. Officials there say they have a bill in the name of "W. Casey" charging him for a room on the nights of July 27 and 28, and for "messing" (eating a meal) on the 28th and 29th. There is, in short, no possibility that Casey could have held meetings with anyone on two successive days in Madrid.

Finally, there are large questions about Jamshid's story. He told ABC's Ted Koppel, for instance, that he and Cyrus made big profits in the arms trade as a direct result of the meeting in Madrid. But there is little evidence that the Hashemis had much money to spare. Elliot Richardson, who was Cyrus Hashemi's attorney in a 1984 arms-smuggling case, said that Cyrus seemed to be dealing in a "remarkably petty" quantity of arms.

The Paris meeting did not occur: The vast discrepancies between Ben-Menashe's account and Brenneks's account show, at the very least, that one of the two men is lying. But the weight of evidence suggests that both versions are false.

Ben-Menashe has changed his story repeatedly: did it happen at the Ritz, as he told Newsweek, or at the Hotel George V, as he told Shmuel Segev? He is also confused about dates. In an interview with NEWSWEEK, Ben-Menashe said he was sure it was Oct. 19 or Oct. 20 because it was close to the Jewish festival of Sukkot. Sukkot, a movable feast, occurred on Sept. 25 in 1980.

There is reason to believe, meanwhile, that Brenneke was nowhere near Paris on Oct. 19–20, 1980. The evidence consists of Brenneke's own credit-card receipts and desk diary for that period of time. According to a recent story in New York's Village Voice newspaper by Frank Snepp, a former CIA agent who is now a freelance journalist and investigator, Brenneke's credit-card receipts show that he stayed at a motel in Seattle, Wash., from Oct. 17 to Oct. 19. His desk calendar, Snepp also reported, showed that he was home in Portland on Oct. 20. These records, Snepp said, were shown to him by Peggy Adler Robohm, a writer who at first admired and wholly believed Brenneke's stories. Robohm got the records from Brenneke himself, during a short-lived collaboration on his autobiography. Fearful of being caught in a literary fraud, Robohm ended their collaboration last summer.

(Brenneke did not return repeated calls from Newsweek. But one of his lawyers, Mike Scott, said Snepp's story was false.)

There is, finally, solid evidence that George Bush did not go to Paris on Oct. 19–20, 1980—the U.S. Secret Service logs recorded where candidate Bush was on those days. Those logs show that Bush campaigned in New Jersey and Pennsylvania on Oct. 17, and that he went to the Chevy Chase Country Club, outside Washington, during the day on Oct. 19. They also show that he delivered a campaign speech before the Zionist Organization of America at a Washington hotel that night. The logs show that he returned to his home at about 9:30 on the night of the 19th. The next day, Oct. 20, the Secret Service logs and press reports both record that Bush was back on the campaign trail in New Haven, Conn. Given the travel time involved, there is no reasonable possibility that he could have flown to Paris, met the Iranians and returned to the United States in that time period.

These details may or may not convince conspiracy theorists who cling to the October Surprise—just as the Warren Commission report failed to convince a whole generation of would-be investigators that Lee Harvey Oswald, acting alone, killed John F. Kennedy. But the evidence on, Bush and Casey's whereabouts—and on the bona fides of their accusers—must also be considered against the broad history of U.S.-Iran relations in the 1980s. Indeed, the October Surprise theory, rests on two broad-brush assumptions that are highly suspect.

One is the notion that Iran must have gotten U.S. weapons from the Reagan administration in return for delaying the hostages' release. Despite the record of the Iran-contra scandal, however, there is oddly little evidence of any substantial weapons "payoff" to Iran. An authoritative analysis by the Stockholm International Peace Research Institute shows that Iran spent approximately $5 billion on arms between 1980 and 1983—and $3 billion of that total went for military equipment from communist-bloc countries. It is true, apparently, that Israel supplied Iran with $50 million worth of spare parts for U.S.-built F-4 Phantom jets in the spring of 1980. But $50 million is chicken feed for swinging a U.S. presidential election. And Iran never got spare parts for its more potent F-14s, which rarely flew during the Iran-Iraq War but which could well have deterred Iraqi air attacks on Teheran and other cities. Only the United States could have provided the parts. Arms dealer Ian Smalley, who made a fortune selling weapons to Iran, says he does not believe that the Reagan administration cut a deal. "If the U.S. had been in the market, we would have been out of business," Smalley said.

A second pivotal notion is that secret negotiations on the hostage issue between the Carter administration and the Iranian government inexplicably broke down during October 1980. (Gary Sick, among others, places great emphasis on this fact.) But Iranian leaders were arguably distracted by the outbreak of the Iran-Iraq War, which began on Sept. 22. In a report for the Council on Foreign Relations, former Carter administration official Harold Saunders argues that the war "diverted and absorbed the attention of Iran's leaders"—and Saunders said that only "skillful management" by Rafsanjani got the Iranian Parliament to resolve its disagreements on the hostage issue. If, as some October Surprise proponents have claimed, Rafsanjani participated in the alleged secret deal with the Reagan campaign, why did he try to resolve the hostage impasse while Carter was still in power? Then, too, many Iranians hated Jimmy Carter. Eric Rouleau, who is now France's ambassador to Turkey, was a journalist, in Teheran at the time. Rouleau, who knew many Iranian leaders personally, says he heard no gossip about any pending deal with the Reagan campaign. But the Iranians were well aware that releasing the hostages could help Carter win the election—and Rouleau says there was "a lot of discussion, lots of declarations, to the effect that the Iranians would never give any kind of 'gift' to President Carter."

There is, finally, one tantalizing coincidence in the secret record of the hostage crisis. On July 1, or July 2, 1980, Cyrus Hashemi met with a member of the Iranian leadership at the Ritz Hotel in Madrid. He was, apparently, acting as a go-between for the Carter administration, which by then was desperately seeking some new avenue to reopen the hostage negotiations. (That meeting, Newsweek sources say, led to a last-ditch diplomatic initiative by Secretary of State Edmund Muskie in September.) Within a week, according to Bani Sadr's diaries, Bani Sadr was told by the Ayatollah Khomeini's nephew that Iran had been approached by Reagan's men with a proposition on the hostages. The meeting site—Spain—was mentioned. Could it be that the Ayatollah's nephew confused Reagan with Carter—and that the whole notion of the October Surprise stems from that simple mistake?

[From the New Republic, Nov. 18, 1991]

THE CONSPIRACY THAT WASN'T

(By Steven Emerson and Jesse Furman)

Few op-ed pieces prove to be as popular or long-lived as the one Gary Sick wrote for *The New York Times* last April. He claimed that in October 1980 officials in Ronald Reagan's presidential campaign made a secret deal with Iran to delay the release of the American hostages until after the election. In return, the United States purportedly arranged for Israel to ship weapons to Iran. The charges of an "October Surprise" weren't new. They had been circulating in the press since 1987. But Sick, who had served on Jimmy Carter's National Security Council staff and is the author of the acclaimed *All Fall Down* (1985), an account of the 1980 Iran hostage crisis, gave new impetus to the story. So did a show the following day by PBS's "Frontline," in which Sick was featured.

When Sick first wrote about the release of the hostages in his book, he explained that there were several reasons they were freed in January 1981: Iranian enmity for Carter, the complications of unfreezing Iranian assets, the disorganization of the Iranian regime, and the protracted nature of U.S.-Iranian negotiations. But in his op-ed piece, Sick wrote that in preparation for a new book on Iran, *October Surprise* (to be published this month), he interviewed "hundreds of people" who told him about a secret Reagan-Bush hostage deal in 1980. What finally persuaded him was "the absence of contradictions on the key elements of the story" provided by his sources. Sick became convinced that William Casey, then Reagan's campaign manager, had met secretly in Madrid in the summer of 1980 with Iranian intermediaries to negotiate a secret deal, and that Casey and other officials met in Paris in October 1980, after which Iran broke off negotiations with the Carter administration. Sick also wrote that three of his sources saw then Vice President George Bush in Paris as well, but that "in the absence of further information, I have not made up my mind about this allegation."

The Sick piece and the "Frontline" story prompted a spate of alarmed editorials, an indignant request from former President Carter for a "blue-ribbon panel" to investigate the charges, and congressional inquiries into the October Surprise.

But the truth is, the conspiracy as currently postulated is a total fabrication. None of the evidence cited to support the October Surprise stands up to scrutiny. The key sources on whose word the story rests are documented frauds and imposters. Representing themselves as intelligence operatives, they have concocted allegations that are demonstrably false, and their stories, full of internal inconsistencies, are also contradictory. Almost every primary source cited by Sick or "Frontline" has been indicted or was the subject of a federal investigation prior to claiming to be a "participant" in the October Surprise. Finally, evidence we have uncovered shows that William Casey and George Bush could not have been present at the meetings alleged by the sources.

The term "October Surprise" was actually coined by Reagan campaign aides who worried in the fall of 1980 that Carter would launch an operation to free the hostages in order to win the election. Thus in the fall of 1980 members of the Reagan campaign team often met to discuss developments regarding the hostages. there was concern that Carter would do something to exploit the hostage situation, and some of the things the Republicans did—such as stealing Carter's debate book—were sleazy. But they certainly did not amount to treason, as proponents of the October Surprise have charged.

The conspiracy theory began to catch on in April 1987. On the front page of the *Miami Herald*, Alfonso Chardy reported on a secret meeting in early October 1980 with Richard Allen and Laurence Silberman, then foreign policy advisers to Reagan, and Robert McFarlane, then an aide to Senator John Tower on the Senate Armed Services Committee. The article said they "met secretly" (it was actually in the hotel lobby) for "20–30 minutes" at the L'Enfant Plaza Hotel in Washington, D.C., with a "man who said he represented the Iranian government and offered to release to candidate Reagan 52 American hostages being held in Tehran." Allen told the House Foreign Affairs Committee last May that he went at the "insistence" of McFarlane, who only indicated that the meeting was about the Middle East. Although the article quoted Allen as saying that he rejected the man's offer as "absurd" and told him to deal directly with the Carter administration, the article strongly implied that this meeting was part of a new scandal linked to the Iran-contra affair. Allen's decision not to inform Carter officials of the meeting fueled suspicion about the story.

Abolhassan Bani-Sadr, the president of Iran from January 1980 through June 1981, was quoted as claiming that he "learned in 1981" that Iranian leaders Ali Akbar Hashemi Rafsanjani and Mohammed Beheshti had collaborated with Reagan campaign aides to release the hostages. (Beheshti and Rafsanjani, bitter political opponents of Bani-Sadr, had forced him from power. Beheshti was later killed by a bomb in 1981, and Rafsanjani is now president of Iran.) Bani-Sadr also charged that the Reagan officials had promised Iran that it would receive weapons for its war with Iraq. But Bani-Sadr stipulated that the promises of weapons were not linked to the release of the hostages—and furthermore, he didn't know if any weapons were eventually shipped.

In early July 1987 the October Surprise got a big push from the *Nation* with Christopher Hitchens's charge that the Reagan campaign assured the Iranians that "if they kept the American hostages until after the election," the Iranians would be rewarded with arms. Hitchens quoted Barbara Honegger, a Reagan campaign researcher and low-level worker in the Reagan White House, as saying that in late October 1980 she had overheard an unidentified "staffer" say, "We don't have to worry about an 'October Surprise.' Dick cut a deal," presumably a reference to Richard Allen.

As these charges began circulating, Bani-Sadr's memory improved dramatically. On August 3 Flora Lewis reported in a *New York Times* column, based on an interview, that Bani-Sadr now held without doubt that the "Reagan campaign offered arms if the hostages were not released until after the 1980 election." He also asserted that in October 1980 his "aides found out" that Rafsanjani and Beheshti had delayed the release of the hostages, that there was a meeting between Beheshti and a "Reagan campaign official" in Paris, and that he "learned later" that Allen, Silberman, and McFarlane met with an Iranian envoy in Washington.

Bani-Sadr's memory continued to improve. On August 9, 1987, *Miami Herald* reporter Chardy quoted him as now saying that "secret contacts between Reagan and Khomeini representatives" had fixed a deal in October 1980 to free the hostages. (Note that according to Sick in a 1988 *Los Angeles Times* story, "Bani-Sadr had nothing to do with the negotiations. He was completely out of it.") The article also reported that the Reagan administration approved of, or at least condoned, Israeli arms sales to Iran in 1981. All the ingredients for the cabal were now in place.

Then, in an August 1987 interview with Leslie Cockburn for her book *Out of Control*, Bani-Sadr said that he knew ahead of time that Rafsanjani and Beheshti sent an Iranian envoy to meet with Allen and Silberman and that he even protested to Rafsanjani and Khomeini that it was "dangerous" to renege on the negotiations with Carter. Remember that initially he claimed to have no prior knowledge of any such meeting. Later he said he "learned" about the meeting in 1981. Now he was saying that he knew of the meeting ahead of time.

It got better. The following year, in a September 1988 article in *Playboy* by Abbie Hoffman and Jonathan Silvers, which painted the most comprehensive October Surprise conspiracy to date, Bani-Sadr said definitively that George Bush was the Reagan campaign official who met in Paris with Beheshti in October 1980. (A year later Bani-Sadr said he had a "document" showing that Bush was present at the meeting—but he could not disclose the document because "the life of the writer . . . and the lives of many people would fall into danger.") Bani-Sadr's accusations about Bush prompted an editorial in *The Washington Post*—not especially disposed to defending Bush in general—in October 1988 that noted Bani-Sadr's motivation in "smearing Bush." The *Post* wrote, "Bani-Sadr has to hope that U.S.-Iranian relations will continue to be antagonistic if the Iranian opposition is ever to have a chance of gaining important American support. His effort to smear Bush betrays concern about tension lessening if the Republicans stay in power."

Emboldened by the eager response to his allegation by international journalists, Bani-Sadr wrote his memoirs, which went beyond even the October Surprise conspiracy. In My Turn To Speak: Iran, the Revolution & Secret Deals with the U.S. (published in France in 1989, and in the United States in 1991), Bani-Sadr portrayed himself as a man victimized by the double dealings of the Khomeini regime and the Reagan campaign.

At the same time a new "source" emerged—who was fortuitously able to confirm Bani-Sadr's allegations. His name was Richard Brenneke, an Oregon businessman, and he surpassed even Bani-Sadr in his ability to recall events that he had admitted earlier he knew nothing about.

Brenneke claimed to have worked for the CIA and FBI in addition to the Mossad and the French, Italian, and other intelligence services. He first surfaced in late November 1986, immediately after the official disclosure of the Iran-Contra affair, when he claimed that he personally had informed then Vice President Bush's office in February 1986 of secret details of the Iran-Contra affair. Reporters flocked to Brenneke as he began propounding incredible tales of U.S. and other covert operations. For example, he was a primary source for a front-page New York Times story on February 2, 1987, about the "Demavand project," a purportedly classified CIA-Pentagon operation to ship billions of dollars of sophisticated weapons, including tanks, bombers, and helicopters to Iran. Brenneke, the article reported, had provided the Times with "documents and tel-exes" including a letter of reference, dated June 20, 1979, which stated that he had been employed by the CIA for thirteen years and that the CIA "found him to be thorough, competent, and very trustworthy."

The CIA and the Defense Department issued categorical denials of the story. Other reporters at the Times began looking into Brenneke's allegations and his background. Both began to collapse. According to a veteran New York Times reporter, "We soon found out that Brenneke was . . . an absolute liar. Even the documents he gave us were forged, including the CIA letter of reference."

At The Portland Oregonian, reporters were amused at Brenneke's celebrity status: the paper had reported weeks earlier that Brenneke had greatly "exaggerated" his role in arms sales, that he had said he couldn't remember if he worked at the CIA, that none of his international arms dealing ever came to fruition, and that he had been the subject of an FBI investigation for his suspected role in a check-kiting scheme and a forged airplane title report years earlier.

For the most part, however, the press was willing to suspend disbelief. ABC News quickly ran a series of "investigative" stories based on new Brenneke allegations. In April 1988 the network aired a report based on a "confidential source"—who the network later admitted to be Brenneke—alleging that in 1983 the United States, working with Israeli intelligence, secretly flew weapons to the contras and used the planes on their way back to transport drugs into the United States.

Newsweek followed up with a story by Robert Parry that provided even more details about Brenneke's allegations, including the charge that Donald Gregg, Vice President Bush's national security adviser (now ambassador to South Korea), was part of the drugs-for-weapons operation. Parry suggested that he had independent confirmation of the ABC allegations, but Brenneke was the only named source for both news organizations. Over the next five months Brenneke's claims were the focus of more than 200 national news stories and columns. (One of the few reporters to raise questions about Brenneke was Mark Hosenball, who wrote an article for TNR in June 1988 saying that Parry and ABC had uncritically bought the story of an unreliable witness.)

It seemed there wasn't anything Brenneke did not know. He told The Los Angeles Times that he supplied explosives to a PLO training camp located in western Oregon, a camp about which Oregon law enforcement knew nothing. He told the Seattle Times of his knowledge of Israelis training Colombia drug cartel hit squads. He told the Detroit Free Press that he supplied U.S. intelligence with information from an Iranian military officer that included maps of Qaddafi's headquarters two months before the United States bombed Libya in April 1986. He quickly discovered that it was possible to get away with any allegation in the national security arena: if an intelligence agency already suspect in the public's mind, denied something, that merely reinforced the authenticity of the charges.

By late September 1988 Brenneke, having never mentioned anything about the October Surprise, suddenly emerged as the primary source of the conspiracy in the United States. His disclosures came right after he met Honegger, the former Reagan campaign aide, in August 1988. Honegger had become one of the leading champions of the October Surprise. She claimed to have her own intelligence and confidential sources who "confirmed" the conspiracy and began working on a book called October Surprise, published in 1989.

Honegger herself was no stranger to controversy. A believer in paranormal events (she has an unusual master's degree in "parapsychology"), she claimed a "source" with her voice contacted her in early 1980 to tell her she would get a job with the Reagan administration. She said that an intelligence officer told her that U.S. satellites parted the clouds during Reagan's inauguration to let the sun shine only on Reagan. When she resigned from the Reagan White House, she told a reporter that she had been guided by insights that she described as "channeled information . . . as if it were from the future."

Honegger says in her book that she met Brenneke on August 22, 1988, in Washington. At the meeting, Brenneke told her that he had learned from his "Iranian contacts" that a secret meeting was held at the Raphael Hotel in Paris on October 19, 1980, between William Casey, Donald Gregg, Iranian arms dealer Cyrus Hashemi, and Iranian merchant Manucher Ghorbanifar. Brenneke told Honegger that he was not present at the Paris meeting, but that he had been in the city that weekend and that his presence there was purely "coincidental."

Honegger, who had been in touch with Bani-Sadr and was eager to substantiate his story about Bush attending the secret Paris meeting, recounted the allegations. What could Brenneke tell her about "Bush's possible participation"? she asked. Brenneke said he would "make a few phone calls to see the 'lay of the land,'" and would get back to her.

A week later the Playboy article hit the stands.

On September 23, 1988, Brenneke suddenly recalled that he had attended at least one of the meetings in Paris in October 1980, that there were a total of three meetings held on October 19 and 20, 1980, and that he had played a pivotal role in the October Surprise deal. Brenneke was appearing that day as a character witness at a Denver court for the sentencing of his friend Heinrich Rupp. Trained as a Nazi pilot, Rupp was a Colorado gold dealer who had been convicted of bank fraud and sentenced to forty-one years in jail. Brenneke told the court that Rupp had been prosecuted to shut him up about his involvement in flying Reagan campaign aides to Paris in October 1980.

Brenneke testified that on October 18, 1980, Rupp participated, at the request of the CIA, in a flight taking Bush, Casey, Allen, and Gregg to a meeting in Paris with Iranian representatives to work out a deal to delay the release of American hostages until after the election. He said that Rupp had been a long-time CIA pilot, and that Rupp personally flew Casey to France. Brenneke also said that he attended the third meeting, at which Casey and Cyrus Hashemi (both men were dead by the time of Brenneke's testimony) and Gregg also participated.

Brenneke went on to say that a CIA officer named Robert Kerritt had given him instructions to go to Paris. And as a result of the meetings with Casey and Bush, he claimed that he witnessed an agreement over the "logistics of transferring $40 million [in U.S. funds] for the purchase of weapons [for Iran]." Asked whether he ever played a "role in conveying or transferring that money," Brenneke said, "I don't believe so."

After the February 1987 New York Times article had appeared, Brenneke had been contacted by Jack Blum, special investigator for the Senate Subcommittee on Terrorism, Narcotics, and International Operations, headed by Senator John Kerry. He met with Brenneke for hundreds of hours, and a year and a half later Brenneke began telling newspapers that Blum and the other staffers corroborated his allegations about the October Surprise. Moreover, Brenneke testified under oath in the Rupp hearing that he had provided the October Surprise information to the Senate subcommittee and that it was later confirmed by the staffers.

Yet according to Blum and other Senate staffers, not only did Brenneke never mention the October Surprise; the subcommittee found him to be an outright liar. The committee obtained thousands of pages of documents from law enforcement and intelligence agencies and discovered, says Blum, "that nothing he said was true—he had made it up based on what he read in the newspaper or what he was told."

The Senate subcommittee released a 1,166-page report in December 1988, in which two pages are devoted to Brenneke. Among the conclusions: "The records show that Brenneke was never officially connected to U.S. intelligence." The report noted that Brenneke "began telling his stories about his 'secret' life as a spy" after being stopped by the U.S. Customs Service on his way back from Europe and asked about documents relating to arms deals. "His response was to offer to become a Customs informant," stated the report. Customs declined the offer. The report also noted that "Brenneke applied for a job with the CIA when he finished school but his application was rejected."

By May 1989 Brenneke's stories began to catch up with him. A Denver grand jury indicted him for perjury for making false declarations under oath to a federal judge in the Rupp hearing. Brenneke's trial took place in Portland, Oregon, in April 1990. A CIA official testified that not only had Brenneke and Rupp never worked for the CIA; the agency had never heard of anyone named Robert Kerritt—Brenneke's supposed contact. Secret Service agents testified that Bush had not left the country in the two weeks before the election; two of Casey's secretaries said the same thing about their boss. Then Gregg testified that on the weekend of October 18 and 19, 1980, rather than being at the Paris meetings as Brenneke claimed, he was on vacation at a beach in Delaware; on Monday, October 20, he said he was back at work at the Old Executive Office Building. He recalled that the weather was cloudy and produced a photograph of himself and his daughter on the beach. The back of the photo is stamped "October 1980" from the processing lab. The photo showed a hazy but party sunny sky.

In response, Brenneke's lawyers produced Robert Lynott, a retired Portland TV weatherman who testified that his review of the weather reports showed there were overcast and rainy conditions most of that weekend in Deleware—and that therefore the photo must have been taken at a different time. This turned out to be the key piece of evidence on which the jury concentrated.

Following a three-week trial, Brenneke was acquitted, thanks to the prosecution's incompetence and overconfidence and the defense's success in shrouding Brenneke in the smoke and mirrors of the intelligence world. The prosecution was roundly criticized for not asking for or admitting any documentary evidence. The Secret Service agents didn't bring records to the trial, which made them vulnerable on cross examination. Casey's two secretaries admitted that Casey kept secrets from them, which rendered their testimony questionable in the minds of jurors.

Prosecutors did not introduce into evidence Gregg's datebook, which has the word "beach" penned on the October 18 weekend, or the four computerized White House memoranda that he sent from and received in his office on October 20. Thus the jury became preoccupied with the questions raised by the defense about the alleged date of the photograph. Three jurors later admitted that their "doubt" about the photograph was the main reason they had acquitted Brenneke.

Despite the litany of Brenneke's inconsistencies, October Surprise supporters touted his acquittal as proof of his veracity. Sick says: "Brenneke had the courage of his conviction in taking on the U.S. government on three key allegations [about the presence of Bush, Casey, and Gregg at the Paris meetings], and he was acquitted. . . . The evidence on George bush not being in Paris is less persuasive than that of Donald Gregg. The way Bush has dealt with this is very suspicious. There is not a single shred of evidence that Bush was where he said he was." "Frontline" embraced Brenneke's trial defense that the weather conditions on the Delaware shore on October 20, 1980, were incompatible with the Gregg photo, claiming that "U.S. government documents show the weather was cold and cloudy that weekend on the Delaware shore." In fact, detailed hourly weather maps of that weekend from the National Oceanic and Atmospheric Administration show that on Sunday afternoon weather conditions were compatible with the picture Gregg produced.

"Frontline," Sick, and October Surprise conspiracy supporters also rely on the "eyewitness testimony" of Brenneke's good friend Rupp. Weeks after Sick published his op-ed piece, in which he indirectly cited Brenneke and Rupp (though not by name), when questioned by reporters skeptical about Brenneke's credibility, he disclaimed any reliance on him. Rupp, however, was still a primary source. He has maintained that his involvement in a loan fraud, which led to the collapse of the Aurora Bank in Colorado in 1985, was actually due to the CIA, for whom he said he was working, as part of a "national security operation" related to Iran-contra.

Like Bani-Sadr and Brenneke, Rupp's sudden recall of the October Surprise came about belatedly. Only after his conviction for bank fraud, Rupp began telling newspapers and TV stations that he flew Casey to Paris on October 18, 1980, and insisted that Bush was present on the tarmac at the French airport. There are numerous inconsistencies in Rupp's account. He was unable to produce any proof that the worked for the CIA, and the plane he said he piloted to Paris that weekend, according to leasing company records, was actually parked in California. Furthermore, Rupp's passport (and Brenneke's too, for that matter) shows no exit from the United States or entry into France in October 1980. Rupp has told reporters he didn't know who his passengers were at the time of the flight to Paris. He claims only to have recognized the "Old Professor" six years later when Casey was shown "testifying on television" about the Iran-contra scandal (a dubious detail, seeing that Casey had a stroke a day before the televised hearings). Rupp also said it was only years later that he recognized the "tall man with the crooked eyes"—the person at the Paris airport—as George Bush. Is it conceivable that Rupp would not have recognized Bush or Casey when he saw them? After all, he claims to be a long-time CIA employee and pilot—and Bush was head of the CIA four years before. Moreover, Brenneke says that Rupp was one of "Casey's favorite pilots."

As for the allegations about Bush's presence in Paris on October 19 and 20, Secret Service records and contemporaneous news accounts of Bush's speeches show indisputably that he is publicly accounted for almost hourly—in numerous campaign stops—from October 15 through the late evening of October 18. On Sunday morning, October 19, according to information obtained by Gordon Crovitz of The Wall Street Journal, Bush had a private lunch with Judge Potter Stewart at the Chevy Chase Country Club. And Secret Service records show that agents went to the club to provide protection for Bush that Sunday morning. On the evening of October 19 Bush spoke at a campaign event at the Washington Hilton, which is substantiated by newspaper accounts. On Monday, October 20, according to a schedule released by the White House and confirmed by newspaper and wire service reports, Bush campaigned the entire day in several cities in Connecticut.

When confronted with this information, October Surprise buffs either claim that the Secret Service records were fabricated or maintain that Bush could have flown to Paris on the Concorde and technically returned eight hours later. But if he did fly via Concorde (or any other high-speed plane), it conflicts with all of the statements made by Rupp and Brenneke, who said that Bush and Casey has flown to Paris on October 18 on a BAC-111. Nor is it compatible with any of the statements made by the other key sources used by "Frontline" and Sick.

By any measure of honest reporting, the October Surprise conspiracy should have died long ago. But like a version of the child's game "telephone," the story had taken on a life of its own, changing and expanding as it went from source to source. More and more "eyewitnesses" began emerging who often appropriated elements of the conspiracy, swapped lies among themselves or were prodded by journalists, and then wove new tales inserting themselves as minor or major characters. Though Bani-Sadr has consistently claimed to have his own proof of the conspiracy, for his book his only evidence was excerpts from Brenneke's court statements in the Rupp hearing. An October Surprise cult emerged, fueled by entrepreneurial journalists who had made the allegations into a lucrative cottage industry. PBS's "Frontline" documentary, for example, cost about $200,000 to $250,000 to produce, paid partially by taxpayer funds.

"Frontline" touted Brenneke's acquittal on perjury charges, declaring that "the government tried and failed to prove that William Casey was not in Paris." "Frontline" and Sick did not tell the public about Brenneke's numerous misstatements, discrepancies, and prevarications, which cast doubt on the credibility of the entire October Surprise scenario. On "Frontline" Brenneke said again that Gregg and Casey traveled secretly to Paris in October 1980. (Allen had produced a videotape of his October 19 appearance on "Meet the Press," so his name did not come up this time.) But Brenneke changed his story once again. In September 1988 he testified that he did not play a role in the transfer of $40 million in weapons to Iran; on "Frontline" he said that he was instructed by Casey at the meeting to launder the $40 million through a Mexican bank and that he did so.

Rather than rely exclusively on Brenneke, Sick and "Frontline" featured new sources who they said "confirmed" each other's accounts. These included Houshang Lavi, Ari Ben-Menashe, and Jamshid Hashemi. Lavi, an Iranian-born arms dealer, claimed he was the unidentified Iranian emissary who met with Allen, McFarlane, and Silberman in Washington in early October 1980 at the L'Enfant Plaza Hotel. "Frontline" quoted Lavi as saying that he witnessed Khomeini's representatives being allowed to enter NATO bases in Europe and "pick whatever they want" for shipment back to Iran.

What "Frontline" and Sick did not reveal was the following: (1) Lavi's claim to have met the three Reagan supporters has been denied by McFarlane, Allen, and Silberman. (2) The only independent record of Lavi's meeting with anyone in 1980 are memoranda from the John Anderson campaign showing that he approached Anderson campaign officials on October 2 offering to secure the release of the hostages if the United States would unfreeze Iranian assets and provide F-14 spare parts. The campaign referred him to the State Department. (3) Lavi implied that he was acting on behalf of Bani-Sadr, but the State Department, according to 1980 department documents, found that he "had no authority to speak on behalf of Bani-Sadr," that he was a "self-appointed middleman" who was trying to broker a deal by going back to each party showing he had lined them up, and that "Lavi was a thoroughly disreputable character." (4) American and European defense and intelligence officials say it is ludicrous to believe that Iranians were escorted to NATO bases to play a military version of "supermarket sweep." (5) Since 1988, when Lavi was "discovered" by Honegger, he has made a series of unsubstantiated allegations, including that Customs Service agents assassinated an informant (Cyrus Hashemi) by pumping poison gas into his hospital room.

Even more than Lavi, "Frontline" and Sick relied heavily on the statements of Ari Ben-Menashe, an October Surprise source who only surfaced in 1990. "Frontline" described Ben-Menashe as a "former Israeli intelligence officer" and aired his claim to be "one of half a dozen Israelis sent to Paris at Casey's request to help coordinate arms deliveries" to Iran. "Frontline" reported that Ben-Menashe "saw a man [he] believed to be Bush" in Paris. Sick used Ben-Menashe as one of his major sources in proving that the October Surprise happened, that Casey was a key participant, and that Israel shipped weapons as part of the "deal."

Apparently emboldened by the acceptance of his allegations on "Frontline" and by Sick, last spring Ben-Menashe told several Australian newspapers and In These Times that he saw Bush arrive at a meeting on October 17 or 18, 1980, at a "top-floor conference room" in Paris, shake hands with Mehdi Karrubi, a leading Iranian cleric, and "close the door." But none of the other "eye-witnesses" and "sources" had ever mentioned Ben-Menashe's presence in Paris or that of any other Israelis, or of Mehdi Karrubi. Moreover, all of the reported sightings of Bush took place on October 19 or 20—not on October 17 or 18. Ben-Menashe has also claimed that Israel shipped more than $82 billion in arms to Iran since 1980—more than thirty-five times Israel's defense imports and domestic weapons production!

In an interview with In These times last April, Ben-Menashe claimed that it was he—not Lavi—who met to discuss the hostages in early October at the L'Enfant Plaza Hotel with Allen, McFarlane, and Silberman.

Without providing any evidence—despite repeated promises to reporters and to congressional officials to hand over "documents"—Ben-Menashe has belatedly become a key insider on other topical issues. He has claimed to have detailed inside knowledge of the Inslaw case. He said that he met many times with Robert Gates in Chile and the United States, and even that he transferred a suitcase containing $16 million to Gates at one point. (The CIA and the National Security Council provided documents to the Senate Intelligence Committee showing that Gates was meeting elsewhere at the time of every meeting cited by Ben-Menashe.) Ben-Menashe has said that McFarlane was a paid Israeli agent since 1978, had received "millions of dollars from Israel, and was the secret "Mr. X" in the Jonathan Pollard spy case. He even says that the United States, through Israel, shipped "billions of dollars of arms" to Iraq. He has become an "expert" on Israel's nuclear program—despite the fact that he never had any connection to it. He has claimed that in 1981 he planted the homing device at the Osirak reactor before it was bombed by Israeli planes, but records show he wasn't out of the country then. He has told Israelis and journalists that he was even offered to be head of the Mossad, Israel's secret intelligence service, but that he declined.

Sympathetic reporters uncritically portray Ben-Menashe as a "senior Israeli intelligence officer" and a "national security adviser" and "special emissary" to Israeli Prime Minister Yitzhak Shamir. In a recent interview, Sick said: "I am satisfied that Ben-Menashe knows a great deal. He has told me three or four things that I was able to corroborate. He told me he was an officer in a sigint [signal intelligence] unit. I have made no attempt to corroborate any of his other information [beyond allegations of 1980]." Seymour Hersh's new book, The Samson Option, which describes Israel's nuclear program and intelligence activities, uses Ben-Menashe as the primary source. Hersh said in an interview that Ben-Menashe was in sigint, that he was a "key player," and that "the Israelis want to hurt him bad" for his leaks of high-level classified information. But Hersh didn't interview Ben-Menashe until April, and he told The New York Times that he did not go

to Israel to investigate Ben-Menashe's allegations or credibility. Hersh claims, incorrectly, that he would have been subject to Israeli censorship. What's more, according to U.S. and Israeli government documents and officials, Ben-Menashe was never in sigint, and the Israelis have never even attempted to initiate legal proceedings against Ben-Menashe, an act they would have obviously pursued if he were the source of important leaks. The closest access Ben-Menashe ever had to intelligence was his work as a low-level translator for the Israel Defense Forces External Relations Department from 1977 through 1987. Contrary to Hersh's assertion that the department is one of the most sensitive branches of military intelligence, it is in fact, compared with other branches, one of the most insignificant.

Ben-Menashe's responsibilities included translating letters and reports between the Israeli military and foreign military attachés. They did not include any translations of cables, though Israeli officials acknowledge that he did have access to minimally classified information, including a report in 1986 prepared for the United States discussing Israel's request to replenish weapons that it supplied to Iran as part of the Iran-contra operation. This alerted him to Israeli involvement in the affair, and to Iran's desperate search for weapons.

Like others before him, Ben-Menashe's recall of the October Surprise came about belatedly—after he was arrested in 1989, imprisoned for a year, tried, and ultimately acquitted in 1990 on charges of illegally trying to export planes to Iran. According to his own letter of resignation, he left in 1987 because he had not received a promotion in many years. (Ben-Menashe has told reporters that he was fired for leaking a covert operation.) His personnel file notes that he was denied a special security clearance at one point because he was considered "delusional." It also says that he had begun trying to peddle weapons in scams in Chile (where he impersonated an Israeli embassy official), Singapore, and Sri Lanka (where he impersonated a Hebrew University professor). Since 1987 he has periodically charged foreigners with being Mossad agents, without any evidence. The most recent and notorious of these claims, which appears in Hersh's new book, is against media giant Robert Maxwell, who has sued.

In 1989 Ben-Menashe was arrested in California along with two Americans. A U.S. Customs agent, posing as a buyer for Iran, tape-recorded some of the conversations in which the men offered to ship the military transport planes to Iran, using a false end-user certificate, for $12 million apiece. Ben-Menashe was going to obtain the transport planes from Israel. The trial of Ben-Menashe and one of the Americans was held in 1990 in New York (the other was tried in California); Ben-Menashe was eventually acquitted. Most of the evidence that the prosecution introduced was directed against his co-defendant, and the evidence submitted against Ben-Menashe was insufficient to convict him.

Yet the court records and information provided by prosecutors show how wildly inconsistent Ben-Menashe's story has been. In 1988 he told a Time reporter that he was involved in a "secret operation" to free American hostages in Lebanon by arranging the sale of planes to Iran through Israel. But a short while later Ben-Menashe told a U.S. Customs undercover agent that since 1987 he had been "self-employed as a journalist and a translator and a political writer doing a lot of traveling . . . [and] that he had no ties with the Ministry of Defense." The undercover agent also testified that Ben-Menashe revealed to him that he was trying to obtain planes from Israel to be sold to an arms buyer. At pretrial, however, Ben-Menashe told attorneys that he became involved in plane sales to Iran because he wanted to expose Israel's covert operations. Ben-Menashe said he was acting as an "undercover journalist gathering information for a book" to "expose the ugly role of Israel and the United States in weapons sales."

During and after the trial, Ben-Menashe contended that he was one of the leading intelligence agents in Israel: Ben-Menashe's lawyer told the court that only three people in Israel were "privy to what was going on with Iran-contra"—Shamir, Israeli counterterrorism official Amiram Nir, and Ben-Menashe. Ben-Menashe claimed that Shamir dispatched him personally to carry out an operation to investigate who was trying to sell planes to Iran. Accordingly to sworn affidavits, Israeli officials in the office of the prime minister, including Shamir himself, never heard of Ben-Menashe.

Despite his brazen claims of being a "senior intelligence officer," Ben-Menashe went to extraordinary lengths to prevent the prosecution from obtaining his personnel records. He refused to sign a waiver authorizing the Israeli government to release his records to the U.S. court, telling his lawyers and the prosecutor that to do so would constitute a violation of the "Official Secrets Act in Israel," punishable "by death." In fact, there is no such thing as an "Official Secrets Act" in Israel, and there is no death penalty for releasing classified information—nor for that matter has Israel ever invoked its death penalty, with the notable exception of the execution of Adolf Eichmann. The judge compelled Ben-Menashe to sign the waiver. The records were then produced, which showed he was just a translator.

As a final defense, Ben-Menashe supports claim that he must be credible because he knew of the Israel arms sales to Iran before they became public. But Israel officials note that this knowledge can be explained both by his work translating letters to the United States in 1986 and by the fact that rumors of Israeli arms sales to Iran had circulated routinely throughout the Israeli Ministry of Defense. Ben-Menashe supporters also cite the numerous trips abroad he made from 1980 through 1987, evidence, they claim, that he was a secret agent. Yet his trips were on non-paid leave, and were recorded in his civilian passport. He never possessed a diplomatic passport as he claimed.

The last "new" primary source used by "Frontline" and Sick was Jamshid Hashemi, an Iranian middleman. His account added a new dimension to the October Surprise: he claimed that, in addition to the meetings in Paris in October 1980, there were earlier meetings in July and August of 1980, which Casey attended and at which the "deal" was actually made to delay release of the hostages.

In interviews on "Frontline" and with Sick, Jamshid said that in July 1980 he and his brother Cyrus (who died in 1986) met secretly in Madrid with Casey, a "senior CIA officer," and Iranian cleric Mehdi Karrubi. Jamshid said that Casey urged that "the Iranians hold the hostages until after the election," and that he, Cyrus, and Karrubi attended a second meeting with Casey in August in Madrid, where "Karrubi expressed acceptance . . . the hostages would be released after Carter's defeat." In his op-ed piece, Sick accepted uncritically Jamshid's claims that he and his brother helped put the final touches on an agreement between Casey and Iran that weapons would be supplied if Iran delayed the release of the hostages.

Missing from Sick's and "Frontline"'s recounting are revelations of Cyrus's and Jamshid's backgrounds that show their credibility problems to be even worse than those of Brenneke and Ben-Menashe.

Cyrus Hashemi was a typical Iranian middleman, trying to marry up business deals between Iran and other countries by inflating his importance to each side. According to declassified CIA documents and American intelligence officials, in early 1980 he offered his services to the Carter administration in getting the hostages released in return for spare parts for Iran. His lawyer, former Attorney General Elliot Richardson, put him in touch with the State Department. During the abortive attempt to free the hostages in April 1980, Cyrus offered to organize assistance from supporters in Tehran. The State Department even supplied him with funds, through the CIA, to assist him. But Cyrus failed to demonstrate that he had any connections in Tehran, and the CIA concluded that "his offers were part of a scam." All contact was dropped with Cyrus.

Cyrus was only one of several self-anointed Iranian intermediaries who purported to speak for Iran in dangling the freedom of the hostages in exchange for military weapons. Sick himself observed as much several years ago, in a chapter for the 1985 Council of Foreign Relations anthology *American Hostages in Iran: The Conduct of a Crisis:* "Throughout the late summer and fall of 1980, the Carter administration had been approached by private individuals claiming to speak for Iranian authorities . . . the evidence strongly suggested that these were private entrepreneurs who saw the possibility of some lucrative business for themselves."

In mid-1984 Cyrus, Jamshid, and a third brother, Reza, were indicted for their illegal efforts from October 21, 1980, through November 1981 to ship tens of millions of dollars of military equipment to Iran. After learning about the Hashemis' secret contacts with Iranian arms procurement officials in September 1980, FBI agents wiretapped Cyrus's office and temporary apartment in Manhattan. According to a transcript of one conversation on October 21, 1980, Cyrus and several Americans discussed plans to fulfill a request from Iranian officials for Cyrus (who had told them that he could obtain badly needed weapons) to arrange the exporting of arms. In the conversations Cyrus admitted that the project was illegal and suggested various ways of avoiding detection. That was the day after Brenneke had said Cyrus was in Paris meeting with Casey. In a subsequent interview with ABC's "Nightline," Jamshid made another startling claim: that starting in August 1980, after the "deal" was concluded with Casey, tens of millions of dollars of American-made weapons were shipped by boat to Iran from Israel. No evidence exists to support the claim, but if it is true, why would the Hashemis have worked so feverishly to obtain weapons in October through what they knew were illegal means?

Reza pleaded guilty, but Cyrus and Jamshid fled to Europe to avoid arrest. Cyrus retained several lawyers, including Richardson, who asked Casey, unsuccessfully, for special dispensation for his client in light of his earlier "assistance" to the United States in 1980, referring to his secret work with the State Department. When that failed, Cyrus attempted, again unsuccessfully, to negotiate for charges against him to

be dropped in return for his cooperation in interceding with Iranian officials to secure the release of the hostages in Lebanon. Throughout this period neither Cyrus nor Reza nor Jamshid ever revealed to their attorneys or to U.S. government officials their alleged secret meetings with Casey in 1980. Is it conceivable that these men, who were desperate to get the charges against them dropped and were threatening, according to memorandums of conversations between Justice and CIA officials at the time, to reveal anything they knew, would not have threatened to disclose the most damaging information they possessed—a secret deal between Casey and Iran in 1980?

According to court records, in 1985 Cyrus, still a fugitive from Justice, became involved with a group of international arms dealers, including Americans and Israelis, trying to sell arms to Iran. Cyrus then asked his attorneys to relay to the Justice Department his offer to serve as an informant in the arms transaction in return for dropping the charges. The U.S. government agreed only to be "lenient" with Cyrus. He accepted. Soon thereafter the Customs agents, as part of a giant sting operation, began working with Cyrus overseas and in the United States to record secretly his conversations with the arms dealers.

Cyrus died on July 21, 1986, in London. A coroner's report attributed his death to a virulent strain of leukemia, which had been diagnosed only days before. A U.S. Customs Service agent attended the autopsy and concurred in its conclusions. Nevertheless, Hashemi's supporters, including attorney William Kunstler (who represents one of the arms dealers) and "Frontline"'s Parry have stated that his death was "mysterious," that Cyrus was murdered to shut him up about what he knew about the October Surprise, and that the U.S. government has covered up his murder. Kunstler, who says that "there are suspicious needle pricks on both elbows" about the case, points out that The Village Voice is seriously considering paying for an exhumation. If anyone had an incentive to kill, Cyrus, however, it was the arms dealer. After all, it was Cyrus's death that forced the government to drop its case against these men.

On July 20, after Sick and "Frontline" had aired Jamshid's charges, ABC's "Nightline" picked up on them. In an off-camera interview Jamshid described the meetings in Madrid at which the deal was allegedly arranged. At the first of them, which he said covered two consecutive days in "late July," Casey and two unidentified Americans first proposed the deal to Mehdi Karrubi, a "close associate" of Khomeini. The Hashemis allegedly served as interpreters. According to Jamshid, the parties met in Madrid again two weeks later, when Karrubi conveyed Khomeini's approval of Casey's offer. "Nightline" and The Financial Times of London investigated Jamshid's charges and claimed to have found evidence that corroborated the story.

Among the "evidence" was the fact that hotel records indicate a Jamshid Halaj and an A. Hashemi checked into the Madrid Plaza in late July, and an Ali Balnean in August. These names allegedly confirmed Jamshid's recollection that he and his brother often used aliases. Jamshid even furnished "Nightline" with a business card using the name Ali Balnean. ("Nightline" also said that the name Robert Gray was in the hotel records. Robert Gray is a Washington public relations executive who served as Casey's top deputy in the 1980 campaign. He supplied "Nightline" with his passport, which indicated that he had not left the country in July or August 1980.) Even if one were to believe that the records were not altered, with the Hashemis running around the globe attempting to broker arms deals it would hardly be surprising that they had been in Madrid during the time Jamshid is talking about. Casey, however, was not.

"Nightline" said that Hashemi's accounts of the meetings were supported by the fact that William Casey was unaccounted for in the public record between August 8 and August 13, as well as July 27 to July 29. It is true that Casey was absent from the public record for a week in August, but it is surely more likely that he was busy with the Reagan campaign than flying off to Madrid. "Nightline" offered more "evidence" in support of the July absence: an unrelated article from The New York Times on July 30, 1980, about the complaints of a right-to-life group over Bush's selection as vice president, quoting a Reagan spokesman as saying Casey would deal with the group, "when he returns [today] from his trip abroad." (In a side note, "Nightline" did report that Jamshid Hashemi said Bush did not attend the alleged October Paris meetings as claimed by a number of others.)

However, "Nightline" had failed to find out that Casey was not in Madrid, but in London, at the Anglo-American Conference on the Second World War. So at the end of an unrelated show a week later, having been contacted by some of those who had attended the conference with Casey, "Nightline" provided a brief update on their previous report. They said that it had been confirmed that Casey had presented a paper on special operations in France during World War II on the morning of July 29, and showed a picture of Casey with some others taken at a reception on the evening of July 28. Ted Koppel said this would leave July 27 and early on July 28 for Casey to have met in Madrid (it is a ninety-minute flight from Madrid to London).

But "Nightline" was wrong again. Jonathan Chadwick, the secretary of the British planning committee for the conference, showed us documents from the conference, which chart the attendance of each participant at each session as well as their accommodations. Casey is not only accounted for on the evening of July 28 and the morning of July 29, but also for the night of July 27 and all day, except for a brief absence, on July 28. This makes Jamshid's story of two consecutive days of meetings impossible.

Not surprising, after the "Frontline" and Sick airing of the October Surprise, new "sources" emerged to tell of their dealings with Bush and Casey. Gunther "Russ" Russbacher claimed that he was the "smoking gun" in the October Surprise conspiracy. He told Marc Cooper of the Village Voice, in a story published this past August, that as instructed by his "big boss" at the CIA, he—along with "co-pilot" Richard Brenneke—flew Bush and Gregg back and forth to Paris in October 1980. What's more, Russbacher claimed that he flew back to the United States in a SR-71 supersonic high altitude spy plane in a flight that lasted ninety minutes. "Sitting next to me was George Bush," throughout the flight.

Russbacher gave his interview to The Village Voice from prison, where he is serving a twenty-one-month sentence for impersonating a federal officer. Yes, he too claims that he was framed by the CIA to shut him up. But he would not be silenced. And as noted by the Voice, Russbacher "has already become a sought-after guest on the radio talk show circuit (from a phone inside the prison) and his story has elicited queries from ABC 'Nightline,' NBC, CBS, The New York Times, Newsday, USA Today, San Diego Union, San Jose Mercury News, Dallas Morning News and other publications."

The Voice revealed that Russbacher had a lengthy relationship with federal authorities, going back to 1965 when he was arrested for impersonating a U.S. marshal, to his army desertion in 1967, his false claim that he was an Army major, and his escape from prison in 1975. In 1987 he pleaded guilty to securities fraud.

For believers in the October Surprise, no doubt there are other "sources" out there, waiting to provide their own testimony. Yet the story has finally begun to unravel—and at least one star witness seems to have caught himself in his own web of lies. The Voice, which has been a proponent of the conspiracy, published a piece in September declaring that Brenneke "was nowhere near the alleged conspirators' meetings in Madrid and Paris in 1980, where he claims he helped Republican big-wigs negotiate a secret hostage deal behind Jimmy Carter's back." The author, Frank Snepp, had obtained Brenneke's diaries and credit card receipts, which showed that between 1980 and 1982 Brenneke "was never away from his favorite Portland restaurants and shopping malls for more than a few days at a time"—despite his sworn testimony that he personally flew planeloads of arms to Iran for "four to five weeks at a time" and his claim to have met with Bush, Gregg, and Iranian intermediaries during the same period.

Brenneke had originally given his financial documents to a writer named Peggy Adler Robohm after she signed a contract with Brenneke and his agent last year to write his story. Initially an ardent believer in Brenneke, after scrutinizing his personal records Robohm found credit card bills, and personal calendar notations that showed indisputably that he had lied, and she volunteered her information to Snepp. Snepp, who had reported Brenneke's allegations as truthful for ABC News for several years, now admits that his "apparent October Surprise fabrications undercut the credibility of everything he touched." He also concedes that Brenneke's own letters "trace the evolution of his public allegations, showing how tips from journalists and other sources prompted him to change this or that date, or modify a particular story line."

Still, conspiratorialists are not easily dissuaded. Although Snepp no longer believes that Bush or Gregg went to Paris in October 1980, he believes that Casey met with Iranian officials in Madrid in July 1980 to negotiate a secret deal with the Iranians. As for Brenneke, Snepp questions whether he was deliberately planted to "sidetrack and sabotage the investigation." Nevertheless, it is important to note that despite the irrefutable evidence that Brenneke never participated in any meetings, none of the other key sources has ever disassociated himself from Brenneke.

Meanwhile, with Brenneke largely discredited, Ben-Menashe has emerged as the main source. The October issue of Esquire features an article by Craig Unger that rehashes many of the earlier allegations and Ben-Menashe's most fantastic stories about the conspiracy. Not to be outdone, Newsweek has hired Unger to be a special consultant to help promote its own October Surprise investigation, although it recently published a piece raising serious questions about Ben-Menashe's credibility.

Beni-Sadr himself seems to be tripping over misstatements he has made over the past several years. In an interview with THE NEW REPUBLIC in September 1991 at his home in Versailles, he recanted key allegations. Asked whether he still affirmed his charge in Playboy that Bush led the American side in secret Paris meetings with the Iranians and at least three arms dealers whom he also named, Bani-Sadr said, "No, that information had been given to me. So I gave the information so that it could be checked to see if they were there. For me, their presence does not matter. I have never guaranteed that those people were really those who had negotiated."

Pressed on his allegation in his book and in Playboy about Bush's presence in Paris, which he had said came from "intelligence," Bani-Sadr now backed away: "I have always repeated that I wasn't sure." He went on to say: "As a matter of fact, I am a sociologist. I do not deal with names; I deal with relations. And morally also I cannot really say if these people or other people were there because I am not sure.... I received names from Iran and I transmitted them; some proved to be true through research and others did not." Still, Bani-Sadr had a novel explanation for why he had raised the Bush charge: "It is said that Bush himself and his entourage initiated this information so they could later refute it and brand it all lies."

In the end, October Surprise believers point to their final fall-back argument: Casey was capable of doing anything. Indeed, Casey was capable of doing a lot of nasty things—as demonstrated by the Iran-contra disclosures. But no evidence has ever emerged that shows Casey at a secret meeting in Madrid or involved in any scheme to delay the release of the hostages.

On October 20, the very day that Brenneke and Ben-Menashe claim that Casey was in Paris, campaign records show that Casey had an 8 a.m. appointment at the Metropolitan Club in Washington and that he had two other appointments that day. Moreover, Richard Allen's personal telephone log shows that Casey made a telephone call to him on October 20 at 7:30 a.m., which Allen recalls as being local.

Proponents of the October Surprise theory, including Sick, cite as circumstantial evidence of a Reagan-Khomeini deal the facts that promising negotiations with the Carter administration in the fall of 1980 were broken off and that the Iranians dropped arms from their list of demands. Even here, however, the events do not support the conclusion. According to all accounts of the crisis, far from breaking off, the negotiations continued intensely through January. In September 1980 Khomeini sent his associate Sadegh Tabatabai to meet with the American negotiator, Warren Christopher, in Germany. "The first meetings were very promising." Christopher told The Los Angeles Times in October 1988. Tabatabai presented a set of moderate demands, including a U.S. non-intervention commitment, the unfreezing of Iranian assets in the United States, and the return of the Shah's wealth to Iran. In addition, Tabatabai asked for the delivery of some $350 million in arms and other military equipment that the Shah had purchased. Although Sick and other conspiratorialists remain surprised at the dropping of this demand, Christopher, who should know, notes: "I discouraged it, and it never came back. . . ." As he explained to the Los Angeles Times, "The issue of arms stayed on the table only briefly. I think they were just testing us."

In September 1980 Iraq invaded Iran. The Iraqi invasion preoccupied the Iranians, interrupting the negotiations. It was not until November 2, after they had stabilized the front, that the Iranians were able to return to the negotiating table. It was too late to reach a deal before the November 4 election. Both Christopher and Lloyd Cutler, counsel to President Carter, accept this explanation. As Christopher said: "It is an interesting question why the promising meetings we had in September ended so abruptly. . . . But I've always felt that the outbreak of the war seemed a sufficient explanation." In an op-ed piece in the New York Times, Cutler wrote that it was not until later in the fall that Hashemi Rafsanjani consolidated power, and any earlier deal would have made him vulnerable to attack from the more radical, anti-U.S. mullahs, including Bani-Sadr, who opposed the January deal with Carter as being too favorable to the United States. It was for this reason also that the Iranians rejected an October 11 offer from President Carter to provide, in exchange for the release of hostages, $150 million in arms that had been purchased by the Shah but held in the United States after the revolution. The release was in fact delayed, but it was done so unilaterally by the Iranians for their own motives—not least their enmity for Carter.

One of Sick's and "Frontline"'s major claims is that Israel served as a conduit for weapons immediately after release of the hostages. Yet none of their sources even remotely agrees on what arms were allegedly traded as a result of a deal, or how they were traded. Ben-Menashe's assertion that Israel sold $82 billion in arms to Iran over six years, mostly transported by plane, is contradicted by Jamshid Hasemi's statement that his brother arranged for the shipment of $150 million in arms by boat in four round trips from Israel to Iran between August 1980 and January 1981. Houshang Lavi declared that he witnessed Iranian officials select arms on NATO bases in 1981, and Richard Brenneke claimed that he laundered $40 million to Iran for arms purchases. And Bani-Sadr can't even get his own story straight. In In These Times he said that Iran received between $50 million and $100 million in arms during his administration. In his book and in our interview, however, Bani-Sadr denied that any large arms shipments were received when he was president, and that those promised as a result of the 1980 "deal" are continuing today.

Israel did in fact deliver arms, most probably with Reagan administration approval, in February 1981. However, State Department documents and interviews with Israeli and U.S. intelligence officials show that the amount was no more than $70 million. Moreover, the shipments were anything but an aberration. They were the resumption of what had been Israeli policy toward Iran prior to the crisis and the arms embargo, a policy that had often diverged from American interests. Israel had even continued some shipments during the embargo, but when Prime Minister Begin retroactively asked President Carter for his approval, Carter angrily refused, and no more equipment was traded. Shipments were resumed only after Carter himself, as part of a final agreement before he left office, lifted most sanctions on Iran on January 19, 1981.

Meanwhile, Sick has plunged even further into the depths of conspiracy. Several journalists say that earlier this year he told them that Gates was part of the October Surprise in 1980, and that the Senate Intelligence Committee chairman, David Boren, would not investigate because he was being "blackmailed" by the White House, which threatened to leak derogatory allegations about his personal life. According to Sick: "I never said I had personal knowledge of that. It was being told to me by other journalists." As for the bigger story, Sick says: "The whole October Surprise was a professionally managed covert action, and I'm frankly surprised that I have as much evidence as I do."

Sick's stubborn perpetuation of the story is all the more surprising given the scorn with which he greeted the Republicans' allegations in 1980 that Carter was planning an "October Surprise" to win the election. Six years ago, writing in the Council of Foreign Relations anthology, he declared: "In the last few months before the presidential elections, there were spurious reports that the Carter administration was planning a spectacular military operation against Iran. This so-called 'October Surprise' allegedly would be intended to win votes for the president. The story was a total fabrication. It was promptly denied by the White House, and a number of responsible newspapers refused to print it. Nevertheless, the story received widespread attention and soon developed a life of its own."

Mr. MURKOWSKI. Mr. President, investigative journalism is an American institution—one that we frankly depend on in a democracy. In the New Republic and Newsweek stories, I believe we witnessed a midcourse correction in investigative journalism. The journalists at those magazines, along with their editors, looked at the activities of their colleagues at "Nightline" and "Frontline" and said, "That's enough * * * this may be interesting and entertaining to some, but it isn't journalism of the sort that we want to practice." So I commend them for working to set the record straight.

As for us, Mr. President, I do not believe this is destined to be our finest hour. I heard it reported that the New Republic spent about $3,000 to disprove the October surprise theory. In true Government fashion, I predict that we will spend $600,000 to do the same thing.

Thank you, Mr. President.

The PRESIDING OFFICER. (Mr. DASCHLE). Who yields time?

Mr. SANFORD. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. I thank my friend, the Senator from North Carolina.

I think the search for truth ought to begin on this floor tonight. I find it ironic to hear my friend from Alaska saying that polygraph tests should now be used as a litmus test when some of the same Republicans were arguing about 3 weeks ago that in the case of Anita Hill, who took a polygraph test, that that should never even be brought up, much less considered in any way, shape, or form to judge the truth.

Mr. MURKOWSKI. The Senator from Alaska did not say that. ABC's news director said that.

Mr. FOWLER. I noted that the Senator from Alaska quoted that approv-

ingly and with authority for his point on the polygraph, thus endorsing the concept.

The colonel that my friend from Maryland referred to is Colonel Charles Scott of my State of Georgia. He served our country for 31 years—in war and peace—bravely, courageously, and with distinction. He was held hostage by the Iranians for 444 days.

When the Senator from Kentucky [Mr. MCCONNELL] earlier quoted Colonel Scott's testimony this morning, he stopped short of the truth. The Senator from Kentucky said "quoting Colonel Scott, 'I have no firsthand knowledge, I do not know whether it happened or not.'" Colonel Scott said that, but he said I want the truth. "We ought to have an investigation. I am no partisan," said Colonel Scott. "* * * 31 years I served my country. I voted for Ronald Reagan. I voted for George Bush. And at least we could find out the truth. Please, Senators, conduct an investigation and help us find out the truth".

That is what this is about this evening.

The PRESIDING OFFICER. Who yields time?

Mr. SANFORD. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds remaining.

Mr. SANFORD. I yield 4 minutes.

Mr. KERRY. Mr. President, I have listened to the proponents of this measure for the last 10 or 20 minutes and, in fact, everything that they have said is the reason they have made the argument for why we ought to go forward with an investigation because each and every one of them have spent time from their perspective trying to discredit each of the witnesses.

The point is there is a different point of view about these witnesses. And the question is whether we are going to have a legitimate investigation that seeks to decide in an appropriate manner who might or might not be telling the truth. The issue that is being asserted by those of us on this side is that they are not telling the truth. But this is an issue which raises fundamental questions about understanding about us, about this institution, about what happened, and we ought to answer them.

The very people who are making light of these witnesses, I might say, are the very people who made light of all the witnesses who said that the Contras were involved with drugs and arms, and those are the very witnesses today that are in the Noriega trial testifying under oath for the Government.

The people who make light of this are the very people who made light of the effort to say that General Noriega was involved in drugs and ought to be taken down, and then he was. Now he is on trial. The people who make light of this are the very people who made light of all of witnesses in the BCCI case, and now that is a matter of record.

The people that we say come up here and tell the truth so consistently have now been found guilty in our courts and are pleading guilty for having lied to the Congress.

So the question is, are we going to make an effort to find the truth or are we not? They assert that there is not somehow a record here that makes a case that we ought to investigate.

Well, Mr. President, this is an issue about that. Gary Sick, as Senator SARBANES said, as others have said, is no flake. This book is documented, and the existence of a book means that this issue will not go away. This Senate has seen fit to have an investigation of an issue not 10 years old but 20 years old, of an issue that has not had 1 or 2 investigations, but maybe 50. We have discovered 50 on the POW-MIA issue. In the hearings we held last week, we discovered already that those 50 previous investigations never even established the baseline of the numbers of people who were lost or may not have been lost. That is not even known for certainty.

There are secret lists. Right here I have a document about the arms sales, that shows that the arms sales went through BCCI, the very arms sales that were linked to this, and we know that Adnan Khashoggi had a $10 million check as part of the arms sales that went through BCCI. We are just learning about these things.

Gary Sick spent three administrations at the NSC, two of them Republicans—Reagan and Ford. He wrote a book that was highly critical of President Carter. He began his investigation for his book with a view that all of these allegations were poppycock. He did not believe them until he kept coming across them, until he discovered himself in his research that the Iranian Foreign Minister had told the Parliament on August 16 that: "The American Republican Party, in order to win the upcoming election, is trying very hard to delay the resolution of the hostage question until after the American election." He learned about the activities of Cyrus Hashemi, an international wheeler dealer who specialized in bringing Americans and Iranians together.

He kept learning about meetings that took place. So, Mr. President, the issue is whether or not we are going to perform for the American people what the hostages themselves have asked us to do. And the fact that the hostages alone have asked us, given what they went through in that desert, given the years they gave up of their lives, the danger they faced, that alone ought to require the U.S. Senate to do its duty.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from North Carolina is out of time.

The Senator from Kentucky has 5 minutes and 30 seconds remaining.

Mr. MCCONNELL. I yield to the Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I believe pontificating has reached a new high in the Senate tonight. I had a call earlier this week from a North Carolinian—Democrat, by the way. I do not speak harshly about Democrats, but I would not be here had it not been for their votes along with Republicans. He said, "Jesse, you have all sorts of scams in Washington. I remember the Abscam." Then he said there was the "Iran scam." And he said now we have the "sham scam." That is what it is all about.

I wish the American people would take a look at the salaries proposed for this little fantasy that is about to unroll. They are planning to hire a chief counsel at an annual salary of $115,000. They are going to hire two associate counsels at an annual salary of $90,000 apiece. I guess that means a plain ordinary lawyer. And $80,000 each on an annual basis for four investigators. Well, it is coming down a little. That is $40,000 apiece. One executive secretary, $39,250. One security clerk at $33,500. Two paralegals, each for an annual salary of $29,625. One receptionist at $19,000. One secretary at $25,000.

I think that lays out the picture very well. It is just what the Senate has always needed: More high priced lawyers.

Mr. President, there are a whole lot more of things that could be said that have not been said.

Mr. President, on October 29, the Committee on Foreign Relations voted to report Senate Resolution 198, as amended, to the Rules Committee for further action. The vote was 9 ayes, 8 noes, and 1 present.

No member of the minority on the committee voted in favor of the resolution. Seven out of eight members of the minority strongly oppose Senate Resolution 198, even as amended. This is the resolution which has now been discharged from the Rules Committee by unanimous consent.

The original purpose of Senate Resolution 198 was to provide additional spending authority of $596,000 to the Committee on Foreign Relations for the purpose of investing "its duly authorized inquiry into allegations that private United States citizens acted to delay the release of United States hostages in Iran until after the 1980 Presidential elections."

The reference is to the so-called "October surprise"—that is, to a group of totally unsupported statements by journalists, former aides of President Carter, and dubious international adventurers that a conspiracy existed in the 1980 Presidential campaign to delay the release of the United States hostages taken in Iran on November 4, 1979.

In addition to the new spending authority the resolution provides unprec-

edented subpoena power to the Subcommittee on Near Eastern and South Asian Affairs to require witnesses to appear "any time or place" before staff for depositions—without the concomitant presence of committee members—and to produce subpoenaed documents, accounts, evidence, and so forth. The Senate legal counsel during the business meeting advised Members that the full committee itself does not have the sweeping power to compel witnesses to appear before staff under pain of contempt and other penalties.

Most members of the minority felt strongly that the resolution as presented exhibited a partisanship unworthy of the traditions of the committee. No specific evidence was presented by the supporters to the resolution to support the need for such an investigation. The undersigned believe that the expenditure of $596,000 represents an appalling waste of the taxpayers funds that would contribute to the lack of confidence that the public has expressed toward the Senate.

The committee adopted, 17 to 1, an amendment to broaden the investigation to include allegations against both United States citizens and Government officials who may have acted to manipulate the release of the hostages in Iran in relation to the 1980 Presidential election. The amendment gives only a semblance of balance to the partisanship of the original text.

LACK OF EVIDENCE

During the committee debate on the resolution, minority members pointed to the total lack of evidence justifying the expense of the taxpayer's money on yet another investigation. I asked whether there was "even enough evidence to look for a shred of evidence?" In answer to my question, I quoted from the majority report of the Iran/Contra Committees—repeat, the majority report—on page 162:

Reagan campaign aides were, in fact, approached by individuals who claimed to be Iranian intermediaries about potential release of hostages, as were other campaign staffs. The committees were told that the approaches were rejected and have found no credible evidence to suggest that any discussions were held or agreements reached on delaying release of hostages or arranging an early arms-for-hostages deal.

At that time, I pointed out that even the majority had found no credible evidence.

The distinguished Senator from Indiana [Mr. LUGAR] took the point further. He stated:

The allegations are that our President, George Bush, and our former President, Ronald Reagan, were involved in a conspiracy with the Iranian Government to delay the freedom of American hostages. It is an outrageous charge.

It goes to the heart of our entire political system. Anyone who does not see the gravity of this seems to me is simply moving in a very superficial realm to what is a fundamental charge as to the legitimacy of our government.

The President of the United States, that is George Bush, is alive and he has testified that there was no October Surprise, there was no conspiracy, there were no visits by him or persons in his campaign in any such manner. He is our President now and he has given that testimony and he has said it a number of times, publicly and privately.

The distinguished Senator from Alaska [Mr. MURKOWSKI], pointed out that the chief witness cited as the basis of the allegations was completely unreliable. He said:

As Vice Chairman of the Intelligence Committee, I have been exposed to the allegations and to one of the people who makes these allegations, one Ari Ben Menashe. He gave two extensive interviews to our Committee staff in the context of the Gates investigation. PBS "Frontline" did some stories based on the Ben Menashe tale. Newspapers ran other stories. The Intelligence Committee asked the FBI to investigate specific issues during the background investigation of Bob Gates. We asked the CIA's Inspector General to investigate. We also asked Bob Gates under oath—under oath—to answer allegations involving the October Surprise. We made inquiries and we simply found nothing.

There is nothing credible, in my opinion, as Vice Chairman of the Intelligence Committee, to suggest that there is evidence which suggests there is more to investigate.

The distinguished Senator from Kentucky [Mr. MCCONNELL] was equally emphatic. He stated:

The Tower Commission, the House and Senate Select Committees on Iran/Contra, and the Independent Counsel considered every dimension, every angle, every issue at some point or another, including, as Senator Murkowski indicated, as recently as the Gates hearings.

My figures indicate that $6 million and 50 staffers were involved in the Iran/Contra investigation; the Independent Counsel, $27.6 million; and on and on. Now we want to go out and try to do it one more time.

The distinguished Senator from Indiana, [Mr. LUGAR], continued the case by making the following points:

Clearly, if there were charges that were credible, if there were at least the normal due process of law, an indictment in which a fair number of people, a Grand Jury or someone, had looked at material, that would be one thing. But the contention that I am making is there is not a credible case. There is not any.

It's not a question of covering up something. This is a question of manufacturing something to investigate.

Now if the Majority is prepared to make a case that is credible to investigate, of persons who have some eye witness knowledge, documentation, and what have you, that would be worthwhile.

But I'm saying in this case there isn't any evidence, at least that I've seen or that any of us have seen. This is why it appears to come as a matter of whole cloth out of someone's imagination.

Minority members of the committee were willing to discuss any factual evidence, if such evidence were available. In the course of the discussions, I proposed that the committee go into secret session, excluding members of the press, the public, and staff from the room, to receive any credible evidence that the proponents of the resolution could offer as justification. The proponents did not accept the offer, and did not submit any evidence in open or closed session supporting the credibility of the October surprise allegations.

THE COMMITTEE WITHIN THE COMMITTEE

Senate Resolution 198 also authorizes sweeping new subpoena powers to the Subcommittee on Near Eastern and South Asian Affairs, powers even greater than the full committee possesses, and lacking the checks and balances in the full committee rules. I pointed out that the effect of these new powers is to create a committee within the committee like the bank within the bank of BCCI, where actions hidden from the bank's officers and directors took place.

The committee within the committee concept turns the committee system on end because it endows a subcommittee, supposedly a constituent part of the full committee, with greater powers and secrecy than the full committee itself. Moreover, it creates a capsule of secrecy which excludes all other members of the committee, except the members of the subcommittee. Indeed, in the guidelines proposed by the chairman of the subcommittee, he arrogates to himself, with the concurrence of the ranking members of the subcommittee, the authority to make all decisions without even reference to other members of the subcommittee.

Minority members feel strongly that the exclusion of other Senators who are members of the full committee from the work and files of the subcommittee sets a dangerous and sinister precedent, and is a violation of rules 26 and 27 of the Senate.

The opportunity for abuse of the subpoena power is particularly serious. Under the rules of the Committee on Foreign Relations, the chairman—of the full committee—may issue a subpoena after consultation with the ranking minority member, or after a vote of the full committee.

When subpoenaed, witnesses must present themselves before the committee—that is, before a meeting of the members themselves—to give testimony or produce records. A witness who refuses faces charges of contempt or other sanctions of law. However, a witness who refuses to give a deposition to a member of the committee staff faces no penalty. He or she may voluntarily give a deposition before staff, but cannot be compelled to do so.

The fact that the committee must vote and at least one Senator must be present during testimony of a subpoenaed witness are built-in procedural safeguards which protect the rights of the witnesses as well as the integrity of the process.

However, the authority demanded by the subcommittee is indeed disquieting. Under the proposed authority, the

subcommittee chairman, with the concurrence of the subcommittee ranking member, would be able to issue the subpoena. There is no provision for a vote by the members of the subcommittee, much less the committee as a whole.

Once the subpoena is issued, the witness would be compelled to give depositions before sfaff at any time or place, or face the penalties of contempt, as well as being compelled to produce subpoenaed documents or evidence. This contrasts sharply with the full committee practice of compelling witnesses to testify only before Members of the Senate.

The practice of allowing staff to travel anywhere to force witnesses to give depositions discards the inherent safeguard of requiring the presence of a Senator—an elected official responsible to the people—to be present. Not only does it multiply the physical possibilities of receiving coerced testimony, but it would require the most intense supervision of the staff employee by the subcommittee chairman to ensure that the civil rights of U.S. citizens are not violated.

But during the committee debate, the subcommittee chairman, Mr. SANFORD, indicated that he did not intend to provide such supervision. According to the transcript of October 22, he stated:

> We will attempt to leave as much as possible to the discretion of the professional investigators that we retain for the purpose, that we will not be personally involved in the investigation until, indeed, there is something for the Committee to hold some public hearings on.

Moreover, my colleague from North Carolina [Mr. SANFORD] reinforced this unsettling theme that the staff would be given free reign to conduct the investigation as they chose, by stating:

> We will not have a procedure that forces the professionals to tell us exactly where they are going and when, but that in advance we will indicate approval of going to location A, B, C, and D, but the time or the timing of that would be life to the professional counsel that we bring in for the purpose of directing the investigation.

Considering that the broad scope of the investigation stretches half way around the world, this admission suggests that the subcommittee chairman is relinquishing responsibility of staff investigators to do what they want with only vague guidelines to restrain them. Moreover, these special authorities would be given to a yet-to-be-hired staff of investigators whose skills and biases are not known.

Indeed, the subcommittee chairman is also seeking unprecedented authority in Senate Resolution 198 for the subcommittee to issue its own rules and guidelines, without putting them to a vote or discussion by the whole committee. If Senate Resolution 198 is approved, the subcommittee could make up its own rules as it proceeds and with no restraints whatsoever over its manner of proceeding or the targets of its investigation.

Ironically, the majority counsel of the committee and the legal counsel of the Senate had prepared a detailed set of consensus procedures to guide the subcommittee in its work. The minority did no participate in the drafting of these procedures, but I found them fair and reasonable with two or three minor corrections. Unfortunately, the subcommittee chairman rejected the draft procedures out of hand, and concocted a vague, but highly partisan procedure that virtually contradicted the consensus document on all key points.

The allegations involved in the so-called October surprise are inflammatory and after 11 years unsubstantiated. Indeed, the Senator from Indiana [Mr. LUGAR] called them ludicrous. Yet Senate Resolution 198 would allow a rogue "committee within a committee" to send staff all over the world with a mandate and extraordinary powers to investigate in secrecy whatever and whomever it chooses in connection with the so-called October surprise. The authoritarian powers sought by the proponents of this resolution stir the deepest apprehensions of the minority that this investigation is an act of the most blatant and tasteless partisanship.

THE COST

Senate Resolution 198 calls for increasing the over-all spending authority of Senate Resolution 62, the current omnibus committee funding resolution, by $596,000 for the period beginning March 1, 1991, and ending February 29, 1993, and expanding the spending authority of the Committee on Foreign Relations for that period. Presumably, the investigation would be completed during that period.

The proposed cost breakdown is as follows:

Salaries	$395,500
Consultants	72,000
Administrative	128,500
Total	596,000

The subcommittee seeks authority for the following staff:

Title	Annual salary	Total for period
1 chief counsel	$115,000	$57,500
2 associate counsels	90,000	90,000
2 counsels	80,000	80,000
4 investigators	40,000	80,000
1 executive secretary	39,250	19,625
1 security clerk	33,500	16,750
2 paralegals	29,625	29,625
1 receptionist	19,000	9,500
1 secretary	25,000	12,500
Total		395,500

This hiring profile essentially establishes a select committee within the committee. The outline of the personnel positions resembles the staff of a high-priced law firm or a prosecutor's office, rather than that of a bipartisan investigating committee. Not surprisingly, the subcommittee chairman has announced that he proposes to hire a distinguished former U.S. assistant attorney, well-known for successful prosecutions against judges, Members of Congress, and the executive branch as the chief counsel.

The minority is disturbed that a staff based upon the concept of what is, in effect, a special prosecutor, will inevitably taint the outcome of the investigation. Although the proposed chief counsel has an outstanding and well-deserved reputation as a prosecutor, the minority feels that introduction of a prosecutor's outlook at this stage of the investigation is entirely premature.

As noted above, the majority has cited no evidence of any crime. Nor has the majority suggested that any statutes might have been violated. Moreover, if any such statutes were violated 11 years ago, the question is moot, since by now the statute of limitations has run. The sole reason put forward for the investigation is the totally unsubstantiated charge of political manipulation of the electoral process.

Thus the notion of a prosecutorial approach to a long-past political question is akin to exhuming a corpse from the past century for forensic analysis to titillate historians. Finally, it undermines the objectivity and integrity of the investigating process.

The minority firmly believes, therefore, that the request to spend $596,000 on unsubstantiated political allegations is a total waste of the taxpayers' money for partisan political purposes.

Mr. President, clearly, this proposal needs additional discussion. I urge that the motion for cloture on Senate Resolution 198 be rejected.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, much has been said about the hostages. The hostages' credibility is not the issue. They, by their own admission, do not really know what happened; they have no earthly idea. They were in seclusion and probably are much less likely to know what happened even than people here in the Senate. So the hostages' credibility is not the issue here. The hostages do not know anything about this.

As a matter of fact, it could be argued that Gary Sick does not really know anything about this. He admitted today that the section in his book related to the key meeting that was alleged to have occurred in Madrid, he relied on six sources to prove that the meeting had happened in Madrid; of those six, only one claimed to have been there, and that was a convicted felon.

So, Mr. President, I repeat, the only October surprise envisioned by this investigation is a October 1992 surprise. There is no more basis to go back and

investigate these allegations than there would be to investigate whether or not the Democrats stole the Illinois election in the 1960 Kennedy-Nixon race. That was only 31 years ago. Surely we can go back and look at that and see what really happened. There are all kinds of allegations out there, Mr. President. At what expense do we chase every rabbit that somebody in America wants to chase?

Mr. President, how much time do I have left?

The PRESIDING OFFICER. One minute and 50 seconds.

Mr. McCONNELL. I yield the remainder of my time to the Republican leader.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky for his statement and for his knowledge of this particular subject. I am not going to say anything derogatory about Gary Sick. He happens to live in Russell, KS, or he did live in my hometown. His parents live in my hometown. I have not had any contact with him for a long time.

Notwithstanding that, I think the Senator from Kentucky has made some salient points, and we are just wasting $600,000. That money might be better spent checking into Centrust and David Paul and some of these people who ripped off the American taxpayers for billions of dollars. Will that be investigated as part of this, I ask the Senator from Kentucky?

Mr. McCONNELL. I say that, unfortunately, an investigation of CenTrust is not envisioned by this.

Mr. DOLE. I do not think it is envisioned by anybody, as far as I can tell. It should be invested by somebody. I hope that all Republicans will vote against cloture.

I yield back my time.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Parliamentary inquiry. Do I have leader time left?

The PRESIDING OFFICER. Leader time has been reserved.

Mr. MITCHELL. I will be very brief and use a moment of my leader time.

Mr. President, in recent months serious allegations have been made in the media and elsewhere that individuals associated with the political campaign organization of then-Presidential candidate Ronald Reagan entered into a secret ageement with representatives of the Government of Iran. Allegedly, the agreement was to delay the release of United States hostages until after the Reagan administration took office in 1981, in exchange for the subsequent sale of arms to the Government of Iran.

The alleged actions are reported to have included a third government, or governments and other third parties, in the sale of, or the promise of the sale of weapons.

While I am not aware of any conclusive evidence of any such agreement, the seriousness of the allegations and the weight of the circumstantial information compel an effort to establish the facts. This is particularly so in light of the accusation that the President and former high U.S. Government officials were involved.

Although I personally accept President Bush's statement that he neither participated in, nor had any knowledge of such contacts, former Presidents Reagan and Carter and President Bush have all expressed the view that these allegations should be laid to rest once and for all.

Mr. President, we know two things: We know that the release of the hostages was delayed until moments after President Reagan took office. And we know that after taking office President Reagan authorized a secret effort to transfer arms to Iran. So the two events did occur. That is a matter of history. That is undisputed.

What we do not know is whether the two events occurred completely independently and totally by coincidence, or whether they were the result of a secret agreement linking them and causing them to occur in that fashion.

That is what this inquiry is intended to establish. I think it raises a question, a fundamental question in everyone's minds. If someone is so opposed to trying to find out the facts, the question arises: What are they trying to hide? Why are they so afraid of an inquiry? What is it that they are trying to conceal?

Common sense, and our own human experience in our daily affairs tells us that when some individuals and groups go to great lengths to prevent the facts from being made public, they are concerned about what those facts are and what those facts will reveal. So I think the fundamental question before the Senate now is a simple one: We know the release of the hostages was in fact delayed until moments after President Reagan took office, and we know that, shortly thereafter, President Reagan did in fact authorize the secret transfer of arms to Iran. Was that just a coincidence? Did it just happen completely independent of any agreement, or was there some agreement? We do not know. We ought to find out for the sake of all concerned and lay this issue to rest once and for all. If there was no agreement, then we ought to try to find out and get that on the record and establish it.

I should think all concerned would want to have the facts made public. So I urge my colleagues to vote for cloture, to permit this inquiry to go forward, so we can find out the facts once and for all, so that at least on this one occasion the American people can feel secure that nothing is being hidden, nothing is being concealed, and there is no coverup. We just want the facts.

Mr. President, I yield the floor.

Mr. KERRY. Mr. President, will the majority leader yield 30 seconds at this time?

Mr. MITCHELL. Yes.

Mr. KERRY. Mr. President, I want the record to be clear, and I say to the minority leader, David Paul's records and CenTrust's records had been subpoenaed by our committee over a year and half ago. We would welcome him as a witness; he is on our witness list. And if the minority leader would like to join in making $600,000 available to our staff and the two people who have done the entire investigation of BCCI, I promise him an investigation of CenTrust such as the Justice Department has never seen.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The 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 Senate Resolution 198, to amend Senate Resolutuon 62 (102d Congress) to authorize the Committee on Foreign Relations to exercise certain investigatory powers in connection with its inquiry into the release of the U.S. hostages in Iran.

Paul Sarbanes, Don Riegle, Claiborne Pell, Dennis DeConcini, Jim Sasser, Paul Wellstone, Bob Graham, Wendell Ford, Pat Leahy, Carl Levin, John Glenn, Paul Simon, Howard Metzenbaum, J.J. Exon, George Mitchell, Harris Wofford.

WAIVER OF CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call will be waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that the debate on the motion to proceed to the consideration of Senate Resolution 198, the resolution to amend Senate Resolution 62 of the 102d Congress, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS], is necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "nay."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—51

Adams	Fowler	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Graham	Nunn
Biden	Heflin	Pell
Boren	Hollings	Pryor
Bradley	Inouye	Riegle
Bryan	Jeffords	Robb
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Wellstone
Exon	Lieberman	Wirth
Ford	Metzenbaum	Wofford

NAYS—43

Bond	Gorton	Packwood
Brown	Gramm	Pressler
Burns	Grassley	Reid
Chafee	Hatch	Roth
Coats	Hatfield	Rudman
Cochran	Helms	Seymour
Cohen	Kassebaum	Simpson
Craig	Kasten	Smith
D'Amato	Lott	Specter
Danforth	Lugar	Stevens
Dodd	Mack	Thurmond
Dole	McCain	Wallop
Domenici	McConnell	Warner
Durenberger	Murkowski	
Garn	Nickles	

NOT VOTING—6

Bingaman	Bumpers	Kerrey
Breaux	Harkin	Symms

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, as I had previously announced, the next item of business before the Senate will be the conference report on the defense appropriations bill. Having consulted with the Republican leader, the managers, and several other interested Senators, I will now propound a unanimous-consent request which, if approved, will permit us to dispose of that measure tomorrow and will permit us to complete or to discontinue the Senate session this evening.

I hope Senators will permit us to do so. If this is approved, there will be a maximum of 5 hours for debate on the defense appropriations bill commencing at 9 a.m., meaning a vote will occur not later than 2 p.m., although there is a possibility of time not being used and yielded back, and a vote could occur prior to that. I think I can safely assure Senators no vote would occur before noon under these circumstances. A vote could occur between noon and 2.

It is my intention, following consultation with the Republican leader, to proceed to the CFE treaty after completion of this measure tomorrow. That will be in the afternoon. I hope we can complete that during the day, tomorrow. These are two important measures.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that at 9 a.m. tomorrow, the Senate proceed to the consideration of the conference report to accompany H.R. 2521, the defense appropriations bill; and that it be considered under the following limitation on time: 5 hours total, with 1½ hours each under the control of Senators NUNN and WARNER; 45 minutes each under the control of Senators INOUYE and STEVENS; and 30 minutes under the control of Senator SASSER; that when all time is used or yielded back, the Senate proceed to vote without any intervening action or debate on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the unanimous-consent request having been granted, there will be no further rollcall votes this evening; however, Senators should be aware that we will have a full day tomorrow. I want to make clear that I mentioned two matters for consideration tomorrow. Senators should understand other matters may also be taken up tomorrow. I did not mean to limit tomorrow's session to just those two. Those are two matters we know we will be going to. There are possibly others as well. Senators should be prepared for activity in this regard tomorrow.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Does the majority leader have any idea how late he plans on going tomorrow?

Mr. MITCHELL. That will depend entirely on how long Senators choose to speak on the CFE treaty.

Mr. SARBANES. We will complete the first item, you have an agreement and then if you complete the CFE——

Mr. MITCHELL. There could be other matters. I just stated there may be other matters tomorrow. I did not intend by mentioning those two items to indicate that those two were the exclusive listed matters for tomorrow. There may be other matters. The Senate will be in session and it is expected to be a full day tomorrow. There may be other matters, depending on the necessity for doing so and trying to get some other matters cleared here.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to provisions in Public Law 101-628, as amended by Public Law 102-166, appoints Howard Coffin, of Vermont, to the Civil War Sites Advisory Commission.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

THE ANDEAN DRUG INITIATIVE

Mr. LEAHY. Mr. President, before I was elected to the U.S. Senate I spent 8 years as a prosecutor in Vermont, and like any prosecutor I saw the terrible toll of drug abuse.

Vermont has so far been spared the tidal wave of drugs and violence that has hit most of America's cities, but that is not to say those things do not exist in my State. Back when I was a prosecutor drugs were gaining in Vermont, and they still are. Often, drug use led to robberies and burglaries to pay for more drugs, and just as often assaults and even murders were committed under the influence of drugs. Careers and families were destroyed, with children usually suffering the most. I prosecuted hundreds of drugs cases, as well as a police officer who made a name for himself by planting drugs on innocent people and then lying in court.

So I know something of the devastation that drugs can cause. And I have watched, during my years in the Senate, how the appearance of crack cocaine and AIDS from shared needles in the 1980's surpassed our worst fears. I have voted for virtually every piece of legislation to fight drugs here and abroad—to support eradication and interdiction, law enforcement, education and prevention and treatment programs—billions of dollars to stop drugs at the source and discourage their use.

One of those programs is the Andean drug initiative—the administration's 5-year, $2.2 billion program to cut cocaine flow to the United States by 60 percent by 1990—through eradication, interdiction, and targeting the leaders of the drug cartels.

The Andean initiative was announced in late 1989, but we were pouring hundreds of millions of dollars into the Andean countries to fight drugs long be-

fore that. Back in 1987 the administration requested and we approved over $100 million in aid to Peru, Colombia, and Bolivia. We did the same in 1988 and 1989. We were told that a central goal of that aid was to counter the production and trafficking in narcotics. We were told that our aid would buttress the courageous efforts those countries were making to fight drugs.

What happened during those 3 years? What happened to the more than $350 million we sent down there?

Let us look at the administration's figures. In 1987 in Peru, 124,437 metric tons of coca were cultivated; 405 metric tons were eradicated, leaving a net of 124,000 metric tons. By 1989, eradication had increased to 1,285 metric tons, but production had risen faster. The net was 137,300 metric tons.

In Bolivia, we saw the same story. Net production of coca in 1987 was 46,500 metric tons. In 1989 it was 68,400 metric tons. In Colombia, it rose from 20,500 metric tons in 1987 to 33,900 metric tons in 1989.

All in all, during those 3 years, what we got for our $350 million was an additional 48,000 metric tons of coca, and more cocaine for sale on our streets.

We also saw that rather than fighting the drug traffickers, the police and the armed forces in those countries, and even top government officials, were in cahoots with them. They were getting rich off drugs, just like the traffickers.

And, we have since learned, that no mechanisms were in place to effectively monitor how those funds were spent.

Mr. President, one would have thought at that point someone would have asked whether there was a fundamental flaw in our strategy. Anyone who spent hundreds of millions of dollars of his own money to stop something from happening only to see it get worse, would at least say "Wait a minute. Maybe we are doing something wrong here."

But that did not happen. Instead, the solution was to send more money, and this time to put a lot more of it into guns and bullets. The Andean drug initiative, formulated without Andean input, calls for a huge increase in aid to the Andean countries with a major military component.

In 1990, the first year of the Andean initiative, antinarcotics aid jumped from $131 million to $264 million. This year it will jump to $372 million—triple what it was just 3 years ago. For 1992 the request is $490 million. The 5-year total for these three counties is $2.2 billion.

About half is for military aid, despite objections from some of the leaders of the Andean countries themselves. In 1989 military aid to Colombia, Bolivia, and Peru was $17 million. This year it is $77 million. The request for next year is $141 million. Total military aid for the 5-year Andean initiative is $1.04 billion.

And, from the separate international narcotics budget, another $100 million has been sent to the Andean countries in the past 2 years. Next year INM will spend another $54 million down there.

The administration's goal was to reduce the availability to cocaine by 15 percent by the end of 1991. 1991 is almost over. What has happened?

According to the administration, "there have been notable achievements in many areas." They mention "new, democratically elected governments * * * increased seizures, arrests, confiscation of assets, and signs of disarray within the trafficking organizations."

Those are important accomplishments. But what about the bottom line—the production of coca that is made into cocaine for sale in the United States? What does the record show after 2 years of the Andean initiative?

According to the administration's own figures, net cultivation of coca has dropped slightly since 1989 from 215,850 to 211,820 hectares in 1990, give or take 10 percent. But production of coca in the Andean countries has increased significantly, from 297,800 metric tons in 1989 to 310,000 metric tons in 1990. This year they predict 337,000 metric tons.

In other words, so far the Andean initiative has got us an additional 39,200 metric tons of coca—raw material for hundreds of additional tons of cocaine, at a cost to U.S taxpayers of about $630 million.

These are preliminary results—the Andean initiative is only beginning its third year, and we may yet see the results we are hoping for. But I am very concerned, and so should be every American taxpayer. Year after year the Congress has given the administration practically everything it asked for to fight drugs, both at home and abroad—$13 billion over the past 10 years. The Andean initiative is one example. Billions of dollars are going down there.

So far, the results are not encouraging. Despite some signs that the Andean Governments are cooperating better in the counternarcotics effect, I have serious concerns about the effectiveness of the administration's Andean strategy.

First, let us look at the economic aid. The administration says the purpose of the economic aid is to counter the destabilizing effects of the drug trade, and to promote economic growth. The idea is that with a strong economy a country like Bolivia can offer a better life to its people, without having to resort to growing or trafficking in coca.

Pehaps, in 10 years, with our aid and a lot of luck, Bolivia's or Peru's economies could become what Mexico's is today. Per capita income in Mexico is twice as large as Peru's and three times larger than Bolivia's. But today Mexico produces a third of the heroin and 70 percent of the marijuana imported into the United States. And over half of the cocaine that comes from the Andes to the United States goes through Mexico. Economic development has not made any difference in solving the drug problem, as far as I can see. These countries are so poor it will take many years for economic development to produce real alternatives to narcotics production.

Even in our own country, with an economy thousands of times larger than Bolivia's or Peru's, marijuana production is flourishing and drug use is far more pervasive. The United States continues to be a major transhipment country for narcotics.

So we should not be under any illusions that sending a billion dollars in economic aid to the Andes is going to solve our drug problem in a 5-year counternarcotics program, at least not as long as there is a demand for drugs in this country.

The military aid is another story. The administration has said we cannot win the war against drugs without it. Last year, we sent $77 million in military aid, and this year it will be about $141 million.

The Appropriations Committee's concern about the militarization of the Andean program is a matter of record. Last year, in its report on the 1991 foreign operations bill, the committee expressed its "growing concern [about] the administration's evident intention to continue a growing emphasis on the military component in U.S. counternarcotics efforts in the Andean region."

Referring to Peru, the committee, said:

> While the committee has consistently supported efforts to control drug trafficking abroad, that should not be taken as an endorsement of a policy which has the potential for drawing the United States into a protracted war against an insurgency in the Andean jungle.

The committee recommended that no military aid be provided to Peru until the Government took concrete steps to bring the military under civilian control and enforce respect for human rights, including bringing to justice military personnel responsible for the worst human rights abuses.

The committee's concern was based on reports from reputable human rights organizations, and reinforced by the State Department's own "Country Reports on Human Rights," dated February 1990, which concluded:

> Security forces personnel were responsible for widespread and egregious human rights violations. * * * There were widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military. * * * Credible reports of rape by elements of the security forces in the emergency zones were so numerous that such abuse can be considered a common practice condoned—or at least ignored—by the military leadership.

These and other concerns about the Andean initiative have also been cited by the General Accounting Office.

Let me quote from a recent GAO report about the Peru counternarcotics program:

U.S. counternarcotics programs in Peru have not been effective, and it is unlikely that they will be effective until significant progress is made to overcome serious obstacles currently hindering U.S. programs. These obstacles include Peru's inability to maintain effective government control over military and police units * * * a lack of coordination and cooperation between military and police, failure to control airports, political instability * * * extensive corruption, widespread human rights abuses, and the effects of an economy heavily dependent upon coca leaf production.

The GAO went on:

The executive branch has not established the management oversight needed to properly execute large counternarcotics aid programs. No reliable criteria have been established to measure Peru's progress in meeting U.S. counternarcotics objectives. Further, the U.S. Embassy lacks an end-use monitoring system for the military aid. * * * In addition * * * a substantial amount of training is being provided to police units that do not have a primary counternarcotics mission.

Although generally positive, the GAO's report on the Colombia program also mentioned several serious problems. It said:

[T]he executive branch has not instituted the controls necessary to ensure that the aid is used as intended. * * * U.S. officials have not begun to monitor the Colombian military's use of aid and, as a result cannot ensure it is being used primarily for counternarcotics purposes. * * * [T]here is no reliable system for evaluating the success of the counternarcotics programs in Colombia. * * * [A]buse of civilians' human rights has increased * * * including [by] the military and police.

According to the administration, controls for monitoring how the aid for Colombia is used have recently been formulated. Presumably then, at least in the future, we can find out what our aid has accomplished.

The State Department inspector general recently completed a review of the United States counternarcotics program in Bolivia. He found many improvements, but he also found many problems. Let me mention some:

Interdiction still only stops 1 percent of the cocaine produced.

It is not possible to draw any realistic correlation between the effect of United States aid and interdiction results.

There is a lack of coordination between United States agencies operating in the field.

There is cross border expansion of illicit cultivation, processing, and trafficking.

Use of the Bolivian Army in the counternarcotics effort "may potentially increase human rights abuses" because of the army's history of such abuses.

The Bolivian Government agency tasked to regulate coca and prevent its movement to illegal processing centers has been ineffective due to corruption and other problems.

Coca cultivation is legal in the areas where many of the United States-funded control activities occur. In areas where coca is illegal, the Bolivian Government has been reluctant to fully enforce the law.

The price of coca has risen, making it more profitable to sell coca than to eradicate it voluntarily, or to switch to alternative crops.

I could go on.

Mr. President, despite all these problems, despite the hundreds of millions of dollars to fight drugs in the Andes and virtually nothing to show for it, the Congress will approve substantial economic and military aid to support the Andean initiative again this year, next year, and I suspect in future years. We will do so because of the devastating, tragic effects of drugs in our cities and towns.

But we also have a responsibility to see that the results justify the huge amount of money we are sending down there.

Right now I cannot say they are. I cannot ignore the problems that continue to plague this program, and the potential danger in the increasing emphasis on a military strategy where the line between counternarcotics and counterinsurgency is often blurred.

That is why, after repeated reports of widespread, egregious human rights atrocities by the security forces in Peru, I and other Members of Congress put holds on the military aid portion of the counternarcotics program there. Torture, rape, abductions, disappearances, extrajudicial executions—these are daily occurrences in the 40 percent of that country that is under a state of emergency.

The guerrilla insurgency, Sendero Luminoso, in a crusade to transform Peruvian society reminiscent of the Khmer Rouge, has massacred entire villages. But the State Department says the army is also culpable. In its zealousness to defeat Sendero the army has engaged in a scorched earth campaign that has terrorized the Indian population. That policy has only led to greater support for Sendero over the years.

We have insisted that before any military aid can go forward, specific steps must be taken to protect human rights. Elementary steps—like allowing the Red Cross access to prisoners. Like establishing a central registry of detainees, so family members can learn the whereabouts of their relatives. Like bringing to justice those responsible for some of the worst human rights abuses—cases where witnesses have come forward, where the perpetrators are known, and yet nothing has been done.

In response to United States pressure, the Peruvian government has taken several steps on human rights. But it is too early to say what impact they will have. Americas Watch reports numerous cases of alleged abductions, disappearances, and murder by the security forces since August. According to a November 20, 1991 Amnesty International report:

Since the new government took office in July 1990 some 250 people have 'disappeared' or been extrajudicially executed * * * but the true toll of the victims will likely never be known. And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

Our insistence that military aid be preceded by improvements in human rights is fully consistent with our law, which prohibits counternarcotics aid to any government that engages in a pattern of gross violations of human rights.

Of the $94 million in economic and military aid intended for Peru this year, we agreed to release $84 million. We even agreed that $3.7 million for the army, despite its reputation as the worst human rights abuser of all the armed forces, intended for road building and other civic action programs, could go forward. We refused to release $10 million which was intended for counterinsurgency training and weapons for the army.

The State Department argued strongly against any conditions on the aid. They said the steps President Fujimori has already taken show that he is serious about human rights. I do not doubt the seriousness of President Fujimori, or of the leaders of the other Andean countries. They see that drugs are not only a U.S. problem. Drugs are destroying their countries too. But I have not forgotten how a United States-trained battalion murdered six Jesuit priests in El Salvador and then lied about it and destroyed evidence, despite the State Department's assurance that the army had been reformed.

If the Peruvian army wants our aid, it is going to have to stop the abuses by its own members. The Peruvian police should also be aware that we will apply the same standard to them. Abuses by their members will jeopardize the entire program.

In testimony on October 13, 1991, Assistant Secretary Levitsky reacted strongly to criticisms of the Andean program by the GAO, the State Department inspector general, and the Congress. Let me summarize Mr. Levitsky's response:

The critics do not "comprehend the realities" of getting things done in a foreign country.

By cutting $10 million in military aid for Peru, the Congress has "seriously compromised" the program. This aid was to train and equip army battalions to "aggressively pursue Sendero Luminoso." Without it, the army will remain ineffective and corrupt.

The Peruvian government has taken steps which "should" increase respect for human rights.

The purpose of the inspector general's audit of the Bolivia program was to "find fault * * * rather than provide an accurate picture." Mr. Levitsky dismisses practically all of the IG's findings.

Mr. President, as I said earlier, the Congress is going to continue to support the Andean initiative. We can see that it has achieved some things, and in another year we will be far better able to judge its results. We all want to stop the deadly flow of drugs into our country.

But the counternarcotics program in the Andes has been plagued by problems, and we are not going to just sign on the dotted line whenever the administration asks for another couple of hundred million dollars to send down there. The administration trumpets the numbers of arrests and seizures, laboratories destroyed, hectares eradicated, and corrupt officials ousted. Again, these are important. But we cannot ignore the fact that so far the results have been insignificant to the American people. The fact is, the amount of coca produced has increased 13 percent in 3 years. That is what the American people care about. That is what matters.

Nor can we accept that by cutting $10 million we are undermining the entire Andean program. We cannot ignore the dangers in pursuing a military strategy in a region where the armed forces commit bloodcurdling atrocities. The Andean initiative can only fail if we ignore the heinous crimes of the very people who would receive our aid.

Nor can we ignore the GAO, inspector general and dozens of press reports of corruption throughout the armed forces and at all levels of government in these countries. Corruption is endemic. Numerous State Department, Defense Department, and DEA officials have acknowledged it publicly. Yet we are sending billions of dollars down there.

I believe the Congress has a responsibility to do what we can to stop the flow of drugs into this country. I recognize that it is a complex problem that is not amendable to easy or quick solutions. But we have learned some things. Brute force, at the expense of human rights, only backfires. Ignoring corruption is the same as throwing money away. And, the huge demand for drugs in our own country is the fuel that feeds the fire.

So far, we have very little to show for our efforts and I intend to follow this program closely. I urge the administration to consult closely with Congress on its plans to allocate funds for this program in the future.

I ask unanimous consent that a November 20 Washington Post article about a recent massacre of 16 people in Peru, and a press release on Amnesty International's November 20 report, be printed in the RECORD.

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

[From the Washington Post, Nov. 20, 1991]

PERUVIANS LOOK FOR ANSWERS IN MASSACRE OF 16

(By Eugene Robinson)

LIMA, PERU—It seemed to be just another chicken barbecue, the Peruvian equivalent of an old-fashioned rent party. Residents of a little apartment block in a crumbling downtown district called Barrios Altos had printed flyers inviting one and all to a Sunday evening of food, dancing and beer—$2.50 at the door, the proceeds earmarked to repair the building's decrepit plumbing.

At 10:30 that night, the party eight hours old and beginning to wind down, two four-wheel-drive wagons with flashing police-style lights pulled up. Out scrambled six or eight men carrying automatic weapons and wearing combat boots. Witnesses said they ordered the 20 or so partyers to lie down in the building's cramped central courtyard, and opened fire. Sixteen people were killed, including a 9-year-old boy. The massacre on Nov. 3 shocked a nation already numbered by years of political turmoil and death.

More than 22,000 Peruvians have been killed since leftist insurgents began fighting the government 11 years ago, but most of the episodes have taken place in the countryside. The indiscriminate slaughter in Barrios Altos was just four blocks from the Congress building.

The massacre had other elements that set it apart. Most of the evidence points strongly to a paramilitary group, probably including policemen or soldiers, who wanted to eliminate one or more people at the party suspected of having links with Shining Path, the Maoist guerrilla group trying to destroy the Peruvian state.

But government investigators seem to be going out of their way to avoid seeing a paramilitary connection. The Peruvian Senate angrily rejected a report by the ministers of defense and the interior—both of them army generals—that attributed the massacre to Shining Path, another leftist group, or unnamed "others."

"The report was a disaster," said Sen. Enrique Bernales. "The authorities seem to be afraid to discover the truth."

The massacre comes at a time when the government of President Alberto Fujimori is under international pressure to improve its record on human rights. The U.S. Congress last month rejected $10 million in planned antidrug aid for the Peruvian army because of human rights abuses. Of more than $80 million in aid that was approved, most was conditioned on progress on rights. An Organization of American States human rights fact-finding commission called on Fujimori to follow through with promised rights initiatives.

Fujimori issued decrees that effectively put the country on a wartime footing in the fight against subversion. One measure, which Congress may challenge, gives the armed forces authority to confiscate goods and "reorient" the activities of individuals and businesses in the event of a "national mobilization."

The circumstantial evidence that a paramilitary group carried out the massacre starts with the fact that it took place less than 50 yards from a police intelligence headquarters and within two blocks of four other police installations. The area is guarded day and night, but none of the police on duty seems to have heard or seen anything.

The killers were said to be all men—Shining Path, by contrast, often includes women in its squads. They allegedly were of military bearing and carried sophisticated automatic weapons equipped with silencers.

The report rejected by the Senate insisted despite physical and eyewitness evidence, that silencers were not used.

The vehicles used by the killers fit the description of two registered to government security agencies, one of them to the presidential guard. Both vehicles were reported stolen earlier in the year, and neither of the thefts seems to have been investigated.

Finally, Sen. Javier Diez Canseco, a frequent government critic, has released a secret document that he says indicates army intelligence had the building under surveillance for at least two years, suspecting that supporters of Shining Path were holding meetings there.

When authorities searched the apartment of victim Filomeno Oscar Leon, the organizer of the barbecue, they found copies of El Diario, the Shining Path newspaper. Another of the victims had been formally accused of having terrorist links.

Several of the victims were ice-cream vendors who pedal through the streets on cycle carts selling their wares. The document released by Diez Canseco indicates that authorities believe Shining Path is trying to infiltrate the legions of street vendors who operate throughout Lima with a perfect cover to observe, agitate and move on.

While most experts find the idea of a silent, subversive ice-cream army far-fetched, they agree that Shining Path has made significant gains in metropolitan Lima, home to 7 million people, a third of the Peruvian population.

One of the most violent and uncompromising guerrilla groups in the world, Shining Path began its military campaign high in the southern Andes, now controls vast areas of the highlands and is stepping up its campaign in and around Lima.

The group has recruited mainly through terror, and has never been believed to enjoy widespread popular support. Two weeks ago, for example, Shining Path guerrillas murdered 42 peasants in a small highland town because they had taken steps to form one of the self-defense militias that are a major component of Fujimori's anti-terrorist strategy.

But Fujimori's belt-tightening economic policies have created a deep recession that has doubled the number of Peruvians living in "extreme proverty" to 8 million. In this new climate, say observers, there is more potential sympathy for Shining Path.

"The government washes its hands and tells the army to solve the problem of Shining Path," said Jose Bailetti, a retired army colonel whose think tank, the Institute for National Defense Research, has conducted human rights courses for active-duty officers. "The president sees it as a military problem, just like the last president, and the one before that. But it also has political, social and economic demensions."

PERU: HUNDREDS KILLED, "DISAPPEARED" DESPITE HUMAN RIGHTS PLEDGES

More than two hundred people in Peru were unlawfully killed or "disappeared" at the hands of the security forces this past year—some in brutal massacres of entire families—despite the president's repeated promises to respect human rights, Amnesty International said today.

"The reality of human rights in Peru is still a far cry from the pledges made more

than a year ago," the human rights organization said.

"We've seen hundreds more Peruvians fall victim to brutal abuses, heard the president lash out against human rights activists, and are still waiting for the full action needed to change the course of human rights in Peru."

In a new report released today, Amnesty International said that since the new government took office in July 1990 some 250 people have "disappeared" or been extrajudicially executed, the majority in the country's military-run emergency zones—but that the true toll of victims will likely never be known.

And despite the significant number of gross violations committed by the military under the new government, few judicial investigations have been carried out and no one is known to have been convicted.

"We believe that a sense of impunity pervades the armed forces," the organization said in a letter to President Fujimori, also made public today. "It is a deadly and dangerous attitude that gathers strength from the continued failure to bring military perpetrators to justice and convict them."

In that letter, Amnesty International also said it was shocked by the president's recent blanket condemnation of human rights groups as "the legal arm of subversion" and "agents of terror"—a denunciation the organization fears could lead to more threats and attacks on activists.

The organization said the gross violations that have marked Peru for almost a decade often take place in revenge raids on peasant communities following attacks by the armed opposition group Shining Path (Sendero Luminoso) and the Movimiento Revolucionario Tupac Amaru (MRTA)—in some cases entire communities have been punished for opposition group atrocities.

The mass extrajudicial executions of peasants and suspected government opponents have continued under the new government, with at least five massacres by the security forces since mid-1990. Some 16 people, one as young as 11, were reportedly shot dead by soldiers and civil defense patrols in August 1990 in a massacre after they refused to join in an attack on the Shining Path. In May of this year, six other peasants were allegedly killed by soldiers posing as members of Shining Path.

Since July 1990, as well, close to 200 peasants and others have "disappeared", mostly from emergency zones, where the military has been known to assume that people support the opposition simply because they live in areas of armed insurgency. People "disappear" on the spot or after being arbitrarily arrested and most are never seen again. Those who are freed have often been tortured first; some have been found alive, dumped, bound and gagged, from an army vehicle, with no record of ever having been detained.

In its report, the organization strongly condemns atrocities committed by the MRTA and, in particular, by Shining Path, which has been responsible for the brutal killing of thousands of non-combatant civilians and captive troops since 1980 in clear breach of humanitarian standards. In the past decade, Shining Path has killed some 90 mayors in Peru and recently has killed a number of foreign nationals, including a nun, priests and development workers.

In its letter to the president, the organization said that such abuses, however, can never be used as an excuse for security force violations. "The terror tactics of opposition groups can never justify counter-terror by the forces of law and order," Amnesty International said.

The organization said it welcomed the government's recent positive steps towards protecting human rights, such as the granting of greater access to prosecutors investigating violations and access of the International Committee of the Red Cross to all places of detention.

More fundamental changes are needed in investigating violations and bringing those responsible to justice, the organization urged, such as moving human rights cases from military to civilian courts.

In the very few cases heard before military courts, there has never been a case which resulted in a member of the military being found guilty of committing human rights violations, even when the government has acknowledged that civilians were deliberately and arbitrarily killed.

ELECTION OF BOUTROS GHALI AS UNSYG

Mrs. KASSEBAUM. Mr. President, yesterday was a most significant day for the United Nations and for her member states. Yesterday, the Security Council recommended by unanimous vote that Boutros Ghali become the next U.N. Secretary General. The General Assembly's endorsement of the Council's recommendation is a certainty, and Mr. Ghali will take office as the United Nation's sixth Secretary General in early January.

Mr. President, I rise to offer my congratulations and best wishes to Boutros Ghali on this historic occasion. Truly a distinguished international public servant, he will bring to his new position a wealth of experience and an understanding of both developed and developing countries that few could rival. Boutros Ghali's career has prepared him well for the challenges he will soon face. As Egypt's Deputy Foreign Minister, he was a key architect of the Camp David accords which helped set the stage for the historic Middle East peace negotiations now underway. He has also played an instrumental role in forging closer ties between Egypt and her African neighbors, and in mediating a number of intra-African disputes.

Significantly, Boutros Ghali is the first individual from the African continent to be elected to the United Nation's top post. I am hopeful that he will play a very active role in attempting to resolve some of Africa's most pressing problems—problems which cry out for assertive U.N. leadership. The continuing conflicts in Somalia and Liberia, the humanitarian emergencies in the Sudan and Ethiopia, Africa's crushing debt burden, and the struggle of so many of Africa's people to achieve genuine democracy, all call for a creative and active United Nation's role.

In the years ahead, the United Nation's role as peacekeeper, election monitor, defender of human rights, and agent of positive change will likely grow. In order to meet these demands, Boutros Ghali will have to transform that organization into an entity where there is more discipline, less redundancy, and better coordination among U.N. agencies. In the decade of the 1990's, fiscal restraint must be the U.N.'s watchword.

Boutros Ghali takes the helm of the United Nations at a time of unparalleled challenge and opportunity. I wish him all the best as he attempts to redefine the United Nation's role in this new and exciting era.

OPPOSITION TO PRESIDENT'S FORMERLY ANNOUNCED POLICY TO END HIRING PREFERENCES IN THE ADMINISTRATION

Mr. GLENN. Mr. President, today I rise to express my surprise when I read that the staff of the President of the United States had yesterday chosen to create a standard for the Federal agencies that was inconsistent with the Civil Rights Act of 1991. Although the President has now disassociated himself from the directive, one cannot help but wonder whether that message will not creep into the regulatory process or White House guidelines in the future. Therefore, I want the RECORD to be clear that I disapprove of such anticivil rights rhetoric.

The Federal Government has always stated its goal to be the model employer. We have not always met that goal, but it is a worthy one that we must strive to achieve. Congress constantly makes employment laws for the private sector; we should include the Federal Government in those laws.

As chairman of the Governmental Affairs Committee, I presided over hearings concerning the employment and promotion opportunities in the Federal Government for women and minorities. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force.

In 1989, I requested that the U.S. General Accounting Office [GAO] conduct a Governmentwide survey of how well the Federal agencies are—here I am quoting from the letter—"implementing existing civil rights laws regarding the hiring, promotion, and retention of women and minorities in the Government. The Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, requires Federal agencies to develop and implement affirmative employment programs to eliminate the historic underrepresentation of women and minorities in the Federal work force."

At the first Governmental Affairs hearing on the glass ceiling in Federal agencies held May 16 of this year, the U.S. General Accounting Office presented a survey of 25 Federal agencies. The Director of the Equal Employment

Opportunity Commission, Evan Kemp, and others testified that indeed a glass ceiling does exist within the Federal agencies. The glass ceiling is generally defined as an invisible and subtle barrier to the advancement of women and minorities. The GAO recommendations will enable the Equal Employment Opportunity Commission and the Office of Personnel Management to collect more meaningful data concerning Federal agencies and the advancement of women and minorities in key jobs within the agencies. It is clear that this is not the time to retrench our efforts in advancing the employment rights of women and minorities in the Federal workplace.

It is ironic that on the very day the Civil Rights Act of 1991 was to be signed into law, the now withdrawn White House Directive was to have been issued that would render the law meaningless within the Federal agencies. Each agency could have circumvented the protections mandated by the Civil Rights Act. The private sector would have been forced to comply with rules which would not have applied in the public sector.

Mr. President, although the Federal Government has made progress in the area of equal employment opportunity, it is still far from a model employer. In a recent report, the Department of Labor determined that the glass ceiling is a reality in the ranks of private sector corporations. The Senate, in the 1991 civil rights bill created a Glass Ceiling Commission. However, as I have said before, the public sector should not be ignored. The Federal Government should lead by example and become a fairness model in shattering the glass ceiling. We in the Congress must thoroughly monitor the Federal Government's hiring, promotion, and retention practices, including White House directives, guidelines, and regulations that will be promulgated on civil rights.

The Labor Department study identified barriers that restrict women and minorities from rising in the workforce of private sector corporations. The barriers often include: Lack of commitment by top management officials; reliance upon recruitment practices that result in limited applicant pools; lack of career advising and training; and a general lack of understanding that equal employment opportunity is a shared responsibility. I might add that providing for equality opportunity simply makes good business sense. Diversity has long been our biggest asset in this country. When we are restrictive either in Government or industry, we hurt ourselves and diminish our economic potential.

At our Governmental Affairs Committee hearing last month on the glass ceiling in Federal Agencies, several witnesses testified that the complaint process itself is a barrier to the advancement of women and minorities. The EEO complaint process is designed to aid the Government in ferreting our illegal barriers to employment and promotion. Therefore, if the complaint process is also flawed, barriers to career advancement multiply. The EEOC guideline to resolve cases is 180 days; the average time it takes a Federal Agency to resolve a claim is 418 days; and the Department of State and the Department of Justice each average over 1,000 days. Some Federal agencies are already playing fast and loose with the rules. The President is not well-served by staff members who seek to create additional barriers to full employment.

The U.S. Comptroller General, Charles Bowsher, has testified before this committee concerning critical issues facing the Federal Government. He told us that investment in human resources for Government operations is one of those critical issues.

According to census figures and the Department of Labor's Work Force 2000 report, our Federal work force will be different in 9 years. It will be more diverse; it will contain more women; it will contain more minorities and it will require more technological expertise. We must guarantee that the work force is well-trained and efficient. And we must ensure that Federal employees are secure in the knowledge that every right which is mandated in the private sector will exist for them.

Therefore, Mr. President, I hope that the ill-fated directive on White House policy with regard to affirmative action does not rear its ugly, divisive head ever again. The newly signed Civil Rights Act of 1991, as well as title VII of the Civil Rights Act of 1964, are very specific as to what is expected of the administration, not only the President, but also his aides and staff in fully implementing these policies.

That is the very least we must do.

DAVID A. "SONNY" WERBLIN

Mr. LAUTENBERG. Mr. President, I rise with deep sadness and a heavy heart to pay tribute to David A. "Sonny" Werblin, a friend and an outstanding New Jerseyan who passed away Thursday. Sonny Werblin was a special man who touched the lives of countless Americans. New Jersey is a better place today for his work.

Mr. President, Sonny Werblin was a success in every sense of that term. He was born March 17, 1910. He attended local schools in Brooklyn and graduated from Rutgers College in 1931. He then took a job with the Music Corp. of America. Starting as an office boy, he rose through the ranks to become the company's president in less than 20 years. As such, he headed a firm that represented many of the major concert, theatre, film, and television stars of the time.

But success in the entertainment field was not enough for Sonny. In 1963, he joined with four partners to purchase what was then known as the New York Titans, a bankrupt team in the American Football League. They were renamed the Jets. Sonny served as president, and turned the Jets into a world champion, in part by signing stars like Joe Namath and Matt Snell. Their 1969 Super Bowl victory over the Baltimore Colts still stands as one of the great football achievements of all time.

After building the Jets into a powerhouse, Sonny was named the first chairman of the New Jersey Sports and Exposition Authority. Again, Sonny proved a huge success. Under his leadership, the authority built the Meadowlands Sports Complex, which helped make New Jersey a player in major league sports. The Meadowlands was a catalyst for jobs and economic development, and a source of renewed pride in our State. There were those who, at the time, said that New Jersey would never succeed. But, Sonny Werblin made it happen.

Even after his success in Meadowlands he went on to become president of Madison Square Garden.

Mr. President, Sonny Werblin's success extended well beyond his professional career. he spent a great amount of time serving his alma mater, including a stint as chairman of Rutgers' Board of Overseers. Not surprisingly, his chairmanship coincided with a period when the university undertook the most successful capital fund-raising effort in its history. His efforts were widely appreciated, and earlier this year, Rutgers completed the Sonny Werblin Recreation Center.

Sonny Werblin received honorary doctorate degrees from St. Peter's College, where he served on the board of regents, Bethany College, and Rutgers University.

Mr. President, I want to extend my sincere condolences to Sonny's widow, Leah Ray, to his sons Robert and Thomas, and to the rest of the Werblin family.

Sonny was a special man who left a lasting mark on our State.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,442nd day that Terry Anderson has been held captive in Lebanon.

As you know, 2 days before Thomas Sutherland was released from captivity, his father-in-law and devoted advocate, William Murray, passed away. The funeral of the family patriarch was postponed so that Mr. Sutherland could attend. But the reunion was postponed due to medical considerations. And the ceremony commenced today without Tom and Jean Sutherland.

Mr. President, I ask unanimous consent that a Washington Post article, "For America's Family, A Bittersweet 'Rebirth'," be printed in the RECORD. And I call on my colleagues to keep this family and the families of the men still held hostage in their thoughts and prayers.

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

FOR AMERICAN'S FAMILY, A BITTERSWEET 'REBIRTH'

(By Edward Walsh)

AMES, IA, November 19.—Since that dark moment in 1985 when Thomas Sutherland was kidnapped near the Beirut airport, William Murray had looked forward to this day, when he could join in celebrating his son-in-law's release from captivity.

For more than six years, Murray was the family's spokesman in the nightmarish hostage drama. It was a role relished by the retired professor of agricultural economics at Iowa State University here and two-time Republican candidate for governor of Iowa. "He had no problem with the limelight," his eldest son, David G. Murray, recalled today.

But William Murray never got to be spokesman at the drama's most critical moment. He could not relay the family's joyous feelings at news of Sutherland's release in Beirut today.

Murray died of cancer at age 88 here Saturday. According to his son, he knew that a hostage release was expected in the next few weeks but was unaware that it would come so soon and that one of those freed would be his son-in-law. "He missed it by a couple of days," David Murray said.

It has been a time of extraordinary passage for the family. It involved the death of the patriarch here, the expected birth this week of his 10th grandchild to Sutherland's daughter Ann in Berkeley, Calif., and what David Murray called "the rebirth of Tom Sutherland" in the Middle East.

"This is a bittersweet time for those of us in the Murray family," David Murray told about 200 people gathered at a ceremony today on the Iowa State campus to celebrate Sutherland's release and mourn William Murray's death.

News of Sutherland's release overwhelmed the sense of sadness that had touched the spacious, comfortable Murray house near the edge of the campus, alma mater not only of Sutherland but also of Terry Anderson, The Associated Press bureau chief in Beirut held longer than any Western hostage in Lebanon.

An American flag stood in the leaf-covered front yard of the Murray home, and yellow and red, white and blue ribbons encircled a nearby tree. The phone started ringing at 6 a.m. and calls continued all day.

Some were from Sutherland's wife, Jean, who arrived in the United States from Beirut Sunday night en route to her father's funeral, which had been scheduled here for Thursday.

According to family members here, Jean Sutherland spent much of the day in a public-telephone booth at the Newark, N.J., airport, confirming her husband's release and rearranging travel plans. They said she was to leave Newark for Frankfurt, Germany, late today and be joined there by the couple's two other daughters, Kit Sutherland of Fort Collins, Colo., and Joan Sutherland of Gresham, Ore.

Thomas Sutherland is expected to be reunited with them at the U.S. air base in Wiesbaden, Germany, that has served as the first extended stop for released hostages since the Iranian hostage crisis more than a decade ago.

Meanwhile, plans were being made here to delay William Murray's funeral until Friday so the Sutherland family, including the newly freed former hostage, can attend.

Sutherland's release also was celebrated in Fort Collins, where he taught animal sciences and genetics for 26 years at Colorado State University.

"He's quite talkative, articulate, full of jokes, the same old Tom," said Gerry Ward, 70, a longtime friend, after watching Sutherland on a televised news conference in Damascus, Syria. "I think I've aged more in the time Tom' been held captive than he has."

David Murray had a similar reaction after watching the news conference on television here. "He looked better than I thought, but I was not totally surprised," Murray said. "He is a resilient guy, and he always had a great sense of humor. . . . It was the same old Tom—the smile, the twinkle in the eye."

Love of agriculture and of teaching brought Sutherland, a native of Scotland, here in the mid-1950s for graduate study at one of the nation's preeminent agriculture schools where he met Jean Murray, his future wife. The same interests later took Sutherland to Beirut, where he was dean of the agriculture school at the American University of Beirut and she taught English.

David Murray said their devotion to agriculture and teaching served as a bond between his father and his brother-in-law, whom he described as "just like father and son." William Murray was a founder of the Iowa Living History Farms, a facility near Des Moines that commemorates the history of farming in Iowa. For the last several years of his life, David Murray said, his father had "two focuses—the Living History Farms and Tom Sutherland's release."

"You would have had an earful, I'll tell you," Murray said when asked how his father would have handled today's momentous developments. "It would have been a highlight of his life."

Instead, it was David Murray, chairman of the orthopedic surgery department at State University of New York-Syracuse Medical School, who spoke for the family. An eldest son unexpectedly thrust by death into the role of father, he scurried from interview to interview today with a broad smile on his face.

"At this moment, we can't be anything but happy," he said. "We'll get back to the sadness tomorrow."

FORCED REPATRIATION OF HAITIAN REFUGEES

Mr. KENNEDY. Mr. President, this week a Federal court issued a temporary restraining order suspending the Bush administration's shameful policy of forcibly repatriating Haitians fleeing the violence and turmoil in their homeland.

No matter what their eventual legal status may be, now is not the time to return Haitians to Port-au-Prince. None of these helpless civilians should be required to return to their homes until the legitimate and democratically elected Government of Haiti is restored and able to secure their safety.

At this point, the United States should take a leadership role within the Organization of American States and, with the assistance of the United Nations High Commissioner for Refugees, encourage other nations in the region to adopt several new initiatives to deal with this refugee crisis.

First, the administration should urge all countries in the region to refrain from forcibly returning Haitians until conditions in Haiti are stabilized, and should press these nations to grant temporary protected status or temporary safe haven to Haitians entering their country. The administration has the authority to do this within the United States under the terms of the Immigration Act of 1990, and it should use it today to protect the Haitian people.

At the same time, U.S. representatives should press within the OAS and the U.N. for the establishment of regional holding centers for Haitians rescued on the high seas. Such centers should be designed to provide protection and screening for bona fide refugees and temporary care for those deemed not to be refugees.

To persuade other countries in the region to join in this effort, the United States should immediately open such a temporary center, under OAS auspices, at an available camp or facility in Florida.

Finally, the United States must redouble its diplomatic efforts to restore democracy and peaceful conditions in Haiti. President Bush should renew his personal efforts to secure, under OAS resolutions, the return of President Aristide and the reestablishment of Haiti's civilian government. Only when this goal is achieved will it be possible to return Haitian immigrants to their homeland.

The escalating plight of the Haitian boat people, and the emergent conditions they face, require urgent humanitarian initiatives. The forcible repatriation of these innocent civilians to a country divided by chaos and violence would undermine the very humanitarian ideals and democratic freedoms upon which our own country is founded.

MICROGENESYS

Mr. DODD. Mr. President, since Magic Johnson's stunning announcement that he is infected with the human immunodeficiency virus [HIV] which causes AIDS, much of our attention has rightfully been focused on the spread of this disease and the tragic impact it has on the lives of those who are infected. I want to call my colleagues' attention to something going on in my State which gives us a glimmer of hope.

MicroGeneSys, a small biopharmaceutical company in Meriden, CT, developed the first AIDS vaccine which was cleared by the FDA for testing in humans in 1987. During clinical trials

sponsored by the National Institutes of Health, the Walter Reed Army Institute of Research and Walter Reed Army Medical Center, and several universities both in this country and abroad, the vaccine has been administered to over 500 people without any adverse reactions.

Last summer, the distinguished New England Journal of Medicine published the first results of a study conducted by Dr. Robert Redfield of Walter Reed. The study reported that in 87 percent of the HIV infected recipients—13 of 15—who received six injections, the vaccine boosted their immune response against the AIDS virus and prevented a decline in T4 cells over the 10 month period of the study. Only 40 percent of the test volunteers—6 of 15—responded to a lesser schedule of 3 inoculations. (A decline in T4 cells marks the progression of HIV infection to development of diseases and symptoms associated with AIDS.)

At the recent National Institute of Allergy and Infections Diseases' [NIAID] AIDS conference, Dr. Redfield gave current data on the subjects of the study. After 24 months of treatment, the first 13 responders to the vaccine showed only a 2.8-percent decline in T4 cell counts. Historically, a 26-percent loss would have been expected in patients over this time period. Of equal note, most of the study participants who were given fewer dosages of the vaccine and classified as nonresponders in the New England Journal article displayed stabilized T4 cell counts after receiving additional dosages of the vaccine.

Another study by Dr. Christos Tsoukas of McGill University also reported encouraging results. Twenty of 21 recipients showed stable or elevated T4 cell counts after 12 months. Significantly, in addition to an elevated mean T4 cell count, the patients in the study also showed a mean increase in the percentage of T4 cells relative to other T cells. The ratio of T4 cells to other T cells is another measure of the health of the immune system, and its decline generally signals the onset of disease.

Mr. President, all of these test results are interim results, and they are not conclusive. However, they give us some reason for hope that we can develop a way to effectively help HIV infected people maintain their immune system function and stay healthy or at least stay healthy for a longer period of time.

I am pleased that this kind of work is being done by MicroGeneSys in my State.

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 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 BILLS AND JOINT RESOLUTIONS SIGNED

At 10:12 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes;

S. 1568. An act to amend the Act incorporating The American Legion so as to redefine eligibility for membership therein;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992 as the "Year of the Gulf of Mexico".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H.R. 3371) to control and prevent crime; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, Mr. Conyers, Mr. Schumer, Mr. Hughes, Mr. Staggers, Mr. Hyde, Mr. Sensenbrenner, Mr. McCollum, and Mr. Gekas: *Provided*, That Mr. Kopetski and Mr. Schiff are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. Feighan and Mr. Schiff are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Rangel, Mr. Archer, Mr. Vander Jagt; and Mr. Rostenkowski and Mr. Archer are appointed as additional conference for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Mr. Wylie, and Mr. Leach.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 822(f)) and sections 1511, 1512, 3601 through 3606, and 4301 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Kildee, Mr. Martinez, Mr. Goodling, and Mr. Petri.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Rowland, Mr. Lent, and Mr. Bliley.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Swift, Mr. Eckart, Mr. Lent, and Mr. Ritter.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802, 1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference: Mr. Conyers, Mr. Wise, Mr. Towns, Mr. Horton, and Mr. McCandless.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405, and 4411 through 4414 of the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Studds, Mr. Tauzin, Mr. Davis, and Mr. Lent: *Provided*, That Mr. Taylor of Mississippi is appointed in place of Mr. Tauzin for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Mr. Roe, Mr. Anderson, Mr. Oberstar, Mr. Hammerschmidt, and Mr. Inhofe.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2130. An act to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992.

At 4:20 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 bills, in which it requests the concurrence of the Senate:

H.R. 3604. An act to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; and

H.R. 3839. An act making appropriations for the Departments of Labor, Heath and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 346. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Union of Soviet Socialist Republics.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2176. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the seventh special impoundment message of the President for fiscal year 1991 and his first special message for fiscal year 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-2177. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report on the feasibility of establishing an International Criminal Court and the relationship to the Federal judiciary of such a court; to the Committee on Foreign Relations.

EC-2178. A communication from the Assistant Secretary of the Treasury (Legislative Affairs) and the Assistant Secretary of State (Legislative Affairs), transmitting jointly, pursuant to law, the third report on foreign contributions in response to the Persian Gulf Crisis; to the Committee on Foreign Relations.

EC-2179. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on verification of the CFE Treaty; to the Committee on Foreign Relations.

EC-2180. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the interest rate charged to borrowers, referred to as the cost of money rate, as determined by the Governor of the Rural Telephone Bank; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2181. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the Strategic and Materials Report for the period October 1990 through March 1991; to the Committee on Armed Services.

EC-2182. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual report on the implementation of the Community Reinvestment Act for 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-2183. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Thrift Resolutions: FSLIC 1988 and 1989 Assistance Agreement Costs Subject to Significant Uncertainties"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on the Budget.

EC-2185. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-2186. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the potential benefits of a shipper responsibility law; to the Committee on Commerce, Science and Transportation.

EC-2187. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on recommendations on the adoption of import and export restrictions on anadromous fish and anadromous fish products; to the Committee on Commerce, Science and Transportation.

EC-2188. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on air traffic control services in the Caribbean/Miami regions; to the Committee on Commerce, Science and Transportation.

EC-2189. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a report on meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2190. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the State Energy Conservation Program for calendar year 1990; to the Committee on Energy and Natural Resources.

EC-2191. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the Industrial Waste Reduction Program Plan; to the Committee on Energy and Natural Resources.

EC-2192. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report on progress in preparing a report on deepwater ports and associated vessels; to the Committee on Environment and Public Works.

EC-2193. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on the audit of the Bank by independent auditors for fiscal year 1990; to the Committee on Governmental Affairs.

EC-2194. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report on the activities and operation of the Public Integrity Section, Criminal Division, Department of Justice for fiscal year 1991; to the Committee on the Judiciary.

EC-2195. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "System and Control Problems Further Weaken the Pension Benefit Guaranty Fund"; to the Committee on Labor and Human Resources.

EC-2196. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1990; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-253. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION 47

"Whereas, since 1956, Wisconsin has contributed $1,150,000,000 more in transportation tax dollars to the federal government than it has received in federal transportation aids; and

"Whereas, Wisconsin has received 74 cents back for each federal highway tax dollar paid; and

"Whereas, in 1990, Wisconsin received back 7 cents for each federal transit tax dollar paid; and

"Whereas, improvements in the state's transportation system are needed to support economic growth and development; and

"Whereas, the current federal surface transportation program is scheduled to expire on September 30, 1991; and

"Whereas, Congress is currently considering reauthorization of the federal surface transportation program; and

"Whereas, the reauthorization of the federal surface transportation program will present an opportunity for Congress to provide Wisconsin, for the first time, with a fair share of federal highway and transit aids; now, therefore, be it

"*Resolved by the Senate, the Assembly concurring*, That the members of the legislature of the state of Wisconsin urge Congress to provide funding for federal highways and transit in Wisconsin and other states that is a more equitable distribution of federal highway and transit aids in relationship to each state's contribution in federal highway taxes; and, be it further

"*Resolved*, That the Senate Chief Clerk shall provide a copy of this joint resolution to the president of the U.S. Senate, to the Speaker of the U.S. House of Representatives and to each member of the congressional delegation from this state."

POM-254. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 26

"Whereas, Pursuant to Section 101 of the Highway Beautification Act of 1965 (23 U.S.C. Sec. 131) and Section 5419 (former Section 5288.5c) of the Business and Professions Code, a provision of the Outdoor Advertising Act, the Director of Transportation (formerly the Director of Public Works) and the Administrator of the Federal Highway Administration, on February 15, 1968, entered into an agreement to define and approve the size,

spacing, and lighting of outdoor advertising displays located in areas zoned commercial or industrial; and

"Whereas, That agreement did not approve advertising displays which have changeable messages which can be changed by electronic processes or by remote control, except those with messages advertising only activities occurring on the property upon which the display is located; and

"Whereas, The state, and counties and cities, desire the authority to regulate the erection of off-premises changeable message signs, known as message center displays, as a means of providing economic and other benefits to the state and counties and cities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to direct the Administrator of the Federal Highway Administration to meet with the Director of Transportation of the State of California to amend the agreement entered into on February 15, 1968, pursuant to Section 101 of the Highway Beautification Act of 1965 and former Section 5288.5c, now Section 5419, of the Business and Professions Code, a provision of the Outdoor Advertising Act, to permit the state, and counties and cities, to regulate off-premises changeable message signs, known as message center displays, in accordance with the Outdoor Advertising Act; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of Transportation."

POM-255. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION 24

"Whereas, The Secretary of Health and Human Services has responsibility for determining those opportunistic infections that represent a diagnosis of acquired immune deficiency syndrome (AIDS) for purposes of both epidemiological surveillance and eligibility for certain entitlement benefits; and

"Whereas, The federal Centers for Disease Control, within the United States Department of Health and Human Services, are currently updating the definition of AIDS which has previously not acknowledged differential clinical manifestations of human immunodeficiency virus in various population groups, including, but not limited to, women and children; and

"Whereas, The determination of presumptive eligibility for federal Supplemental Security Income (SSI) program benefits for a person with human immunodeficiency virus (HIV) has been based on the definition of AIDS by the Centers of Disease Control; and

"Whereas, As a result, a person may develop HIV-related symptoms or opportunistic infections which render him or her incapable of working but that person cannot presumptively obtain certain benefits and services which target people with AIDS because, although he or she cannot work, the condition is not diagnosed as AIDS under the current case definition; and

"Whereas, The federal Social Security Administration, within the United States Department of Health and Human Services, is currently reviewing the criteria to establish presumptive eligibility for SSI for symptomatic persons with HIV infection who cannot work: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorialize the United States Secretary of Health and Human Services to establish criteria for the determination of presumptive eligibility for federal Supplemental Security Income program benefits that include HIV-infected persons who have previously been unable to obtain that eligibility, including, but not limited to, women and children; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Health and Human Services, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM-256. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 32

"Whereas, Over 470,000 American men and women have been uprooted from their families and peacetime careers to sacrifice their time and risk their lives for their country in the Iraq-Kuwait crisis; and

"Whereas, The American people are united in their respect for the sacrifices suffered by America's men and women serving in Operation Desert Storm; and

"Whereas, Those sacrifices also are borne stateside by military dependents whose reservist parents or spouses were called to active duty, and who were forced to leave behind their children, often with inadequate child care; and

"Whereas, Due to the Iraq-Kuwait crisis, more than 11,500 members of the United States Military Reserve who are residents of California have been called to active duty to serve their country; and

"Whereas, This sudden and unexpected call to arms has caused unavoidable financial and emotional hardship for those reservists, their families, and their dependents, and many of these reservists have suffered directly from substantial personal income reductions; and

"Whereas, Reservists called to active duty often lose their salaries without receiving comparable compensation from the military, which is a direct loss or injury to our nationals within the meaning of paragraph 16 of United Nations Resolution 687; and

"Whereas, The United Nations has created a fund to pay compensation for claims that fall within United Nations Resolution 687, which establishes a commission that will administer the fund; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States to claim compensation from the United Nations compensation fund for the military families of the United States, who sacrificed employment income to provide military service, and for their employers, who continue payment of the difference in salaries, including the State of California; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Representative of the United States to the United Nations."

POM-257. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION 33

"Whereas, The Persian Gulf War has been brought to a swift and successful resolution by United States and Allied Forces who served with honor and distinction; and

"Whereas, Iraq's seven-month occupation of Kuwait has left Kuwait physically devastated and will require extensive reconstruction of oil-producing facilities, government buildings, and other public and private facilities; and

"Whereas, The United States government will play a significant role in the rebuilding effort, and American construction and engineering firms and equipment companies will benefit by being awarded a large portion of the reconstruction contracts that will be worth million of dollars; and

"Whereas, A significant portion of the United States military personnel involved in the Persian Gulf War were minorities and women; and

"Whereas, The California Legislature believes that the contribution made by minority and female military personnel in the Persian Gulf War should be recognized as a part of the reconstruction effort; now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the California Legislature encourages the United States government and all American companies participating in the reconstruction of Kuwait to adopt and implement as an employment goal the hiring of minority and female workers in proportion to the ethnic and gender composition of the American military personnel who served in the Persian Gulf War; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives; and to each Senator and Representative from California in the Congress of the United States."

POM-258. A resolution adopted by the Virginia Council of Chapters of the Retired Officers Association relative to missing in action in Southeast Asia and previous conflicts; to the Select Committee on POW/MIA Affairs.

POM-259. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; ordered to lie on the table.

"RESOLUTION

"Judge Thomas replaces retired Justice Thurgood Marshall, a giant of the United States law and the first member of the black race to hold a seat in the highest Court of the nation.

"After a stormy confirmation process, and in view of the immense challenge faced by this humble son of a small town of the southern state of Georgia, it is the duty of this High Body, in representation of the People of Puerto Rico, to extend its congratulations to Judge Clarence Thomas.

Be it resolved by the House of Representatives of Puerto Rico:

"SECTION 1. To extend the warmest congratulations of the House of Representatives to the Hon. Clarence Thomas, Judge of the Circuit Court of Appeals for the District of Columbia, on the occasion of his confirmation as Associate Justice of the Supreme Court by the Senate of the United States.

"SEC. 2. A copy of this Resolution, translated into the English language, shall be remitted to Judge Thomas, to the President and the Vice-President of the United States and to the members of the United States Senate.

"SEC. 3. A copy of this Resolution shall be delivered immediately to the communications media.

"SEC. 4. This Resolution shall take effect from the time of its approval."I62

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 215. A joint resolution approving the extension of nondiscriminatory treatment (most-favored nation treatment) to the products of the Union of Soviet Socialist Republics (Rept. No. 102-228).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1869. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes (Rept. No. 102-229).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 188. A concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

S. Res. 196. A resolution expressing the sense of the Senate that the Soviet Union should immediately begin a prompt withdrawal of Soviet armed forces from the Baltic states and undertake discussions with the governments of Lithuania, Latvia, and Estonia appropriate to facilitate that withdrawal.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 1128. A bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 78. A concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Francis S. M. Hodsoll, of Virginia, to be Deputy Director for Management, Office of Management and Budget;

Edward Joseph Mazur, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget;

Kathleen Day Koch, of Virginia, to be Special Counsel, Office of Special Counsel, for the term of five years;

Reggie Barnett Walton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Emmet Gael Sullivan, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years; H. Edward Quick, Jr., of Maryland, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 1996;

Tirso del Junco, of California, to be a Governor of the United States Postal Service for the term expiring December 8, 2000; and

J. Sam Winters, of Texas, to be a Governor of the United States Postal Service for the term expiring December 8, 1999.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

William Kane Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994;

Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994;

Jose E. Martinez, of Texas, to be Director of the Trade and Development Program;

Robert Stephen Pastorino, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Robert Stephen Pastorino.

Post: United States Ambassador to the Dominican Republic.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses names: Shannon and Michael Lewis, none; Stephen Robert Pastorino, none.

4. Parents names: Adolph and Florence Pastorino, deceased.

5. Grandparents names: Mr. and Mrs. Giovanni Pastorino, Mr. and Mrs. Pierangeli, deceased.

6. Brothers and spouses names: None.

7. Sisters and spouses names: $50, Diane Feinstein, Oct, 1990. $20, Congressman Dellums, Oct, 1990; James and Karen (Pastorino) Eagan.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Curtis Warren Kamman.

Post: Ambassador to Chile.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses names: Edward G. Kamman (son) none. John Curtis Kamman (son) none. Nichole Kamman (spouse of John) none. W. Stephen Kamman (son) $55 August 1, 1990, N.C. Democratic Party.

4. Parents names: Mildred I. Kamman, mother, none. Glenn F. Kamman, father, $25, November 12, 1988, Nat'l Republican Sen. Committee; $68, November 23, 1988, Nat'l Republican Sen. Committee; $25, January 7, 1989, 1989 GOP Victory Fund; $25, February 22, 1989, Republican Nat'l Committee; $50, March 13, 1989, Republican Nat'l Committee; $25, May 12, 1989, GOP Victory Fund; $25, June 21, 1989, Republican Nat'l Committee; $25, July 10, 1989, Nat'l Republican Sen. Committee; $25, July 20, 1989, Republican Nat'l Committee; $25, August 3, 1989, Nat'l Republican Sen. Committee; $25, August 14, 1989, Republican Nat'l Committee; $20, August 31, 1989, Nat'l Republican Sen. Committee; $25, September 11, 1989, Republican Nat'l Committee; $37, October 20, 1989, Republican Nat'l Committee; $15, October 19, 1989, Nat'l Republican Sen. Committee; $20, December 19, 1989, GOP Victory Fund; $25, January 4, 1990, GOP Victory Fund; $35, January 14, 1991, Republican Nat'l Committee.

5. Grandparents names: Horace Kamman (deceased), none. Bertha Kamman (deceased), none. Warren Merry (deceased), none. Ella Merry (deceased), none.

6. Brothers and spouses names: Jonathan Kamman, none; Beverly Medlyn (spouse of Jonathan) none; Robert Kamman, none.

7. Sisters and spouses names: No sisters.

George Fleming Jones, of Texas, 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 Co-operative Republic of Guyana.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: George Fleming Jones.

Post: Guyana.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: $10, April 8, 1987 Americans for Robertson; $20, July 12, 1987 Americans for Robertson; $20, December 13, 1987 Americans for Robertson; $50, September 20, 1988 Dukakis for President; $50, October 17, 1988 Dukakis for President.

3. Children and spouses names: George F. Jones III, $75, October 26, 1988 Keyes for Senate. My three other children, none. All four children are unmarried.

4. Parents names: Deceased.

5. Grandparents names: Deceased.

6. Brothers and spouses names: Nominee has no brothers or sisters.

William Edwin Ryerson, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Edwin Ryerson.

Post: Tirana, Albania.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Nina Ryerson Quistoff, Thomas, Marten, Jennifer and Nicholas, none.

4. Parents, J. Delbert Ryerson, father (deceased), Marian Ryerson, mother (deceased).

5. Grandparents: William B. Ryerson, grandfather (deceased), Loretta Ryerson, grandmother (deceased), Edwin W. Wheeler, grandfather (deceased), Emma W. Wheeler, grandmother (deceased).

6. Brothers and spouses: none.

7. Sisters and spouses: Jane Ryerson Logdon, none, George Logdon, none.

John R. Davis, Jr., of California, a Career Member of the Senior Foreign Service, Class

of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John R. Davis, Jr.

Post: Ambassador to Romania.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Thorp Davis, Katherine, Anne, none.

4. Parents: John R. and Petronilla Davis (both deceased).

5. Grandparents: David and Claire Davis; Thorp and Minnie Wilcox (all deceased).

6. Brothers and spouses: none.

7. Sisters and spouses: Sister Petronilla, O.P., none.

Frederick Vreeland, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Frederick Vreeland. Post: Kingdom of Morrocco.

Contributions, amount, date, and donee:

1. Self, $1,000, Dec 4, 1987, "George Bush for President", $1,000, Jan 8, 1990 "The President's Club".

2. Spouse: None.

3. Children and spouses: Mr. and Mrs. Alexander Vreeland, New York, NY, none. Mr. Nicholas Vreeland, India, none.

4. Parents (deceased).

5. Grandparents (deceased).

6. Brothers and spouses: Mr. and Mrs. Thomas Vreeland, Los Angeles, CA, none.

7. Sisters and spouses, none.

John Hubert Kelly, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John H. Kelly. Post: Helsink, Finland.

Contributions, amount, date, and donee.

1. Self; John H. Kelly; none.

2. Spouse, Helena Marita Ajo-Kelly, none.

3. Children, David Snowdon Kelly, Maria Louise Kelly, none.

4. Parents, Clarice Kelly (father deceased).

5. Grandparents, (deceased).

6. Brothers and spouses Mr. and Mrs. James Kelly, $250, 1990, Michael Liu for Congress; $50, 1990, Patricia Saiki for Senate; $100, 1990, Republican National Committee; $100, 1989, Republican National Committee; $100, 1988, Republican National Committee; and $100, 1987, Republican National Committee.

Dr. and Mrs. Michael Kelly, $800, 1990, BDM International Political Action Committee; $800, 1989, BDM International Political Action Committee; $800, 1988, BDM International Political Action Committee; and $500, 1987, BDM International Political Action Committee.

7. Sister, Kathryn Kelly, none.

I have listed above the names of all members of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BURDICK, from the Committee on Environment and Public Works:

E. Gail Planque, of New Jersey, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1995; and

Herbert Tate, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for medical coverage of long-term benefits in home- and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

By Mr. BOND (for himself, Mr. MCCONNELL, Mr. BOREN, Mr. COATS, and Mr. GRASSLEY):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal Agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, Mr. KERREY, and Ms. MIKULSKI):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in the United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the medicare program; to the Committee on Finance.

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans Affairs.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans Affairs.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTION

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL and Mr. SIMON):

S. Res. 230. A resolution in support of Machine Tools VRA; to the Committee on Finance.

By Mr. SIMON:

S. Res. 231. A resolution expressing the sense of the Senate that the President should submit to the 102d Congress a proposal for reforming the health care system of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2017. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of long-term benefits in home and community-based settings and nursing facilities, to create a new long-term care trust fund, and for other purposes; to the Committee on Finance.

LONG-TERM CARE FAMILY PROTECTION ACT OF 1991

Mr. SIMON. Mr. President, I am introducing today the Long-Term Care Family Protection Act of 1991. I am pleased that my colleague Senator WELLSTONE is an original cosponsor.

Since 1988, I have been listening to people in Illinois and all over the country tell me we need a comprehensive long-term care policy. At times, such as back in 1989, it appeared we were going to move ahead on legislation. I sponsored in the Senate a bill that had been introduced by the champion of seniors, the late Representative Claude Pepper. It would have provided assistance for home- and community-based care, and it came close to passing. In that year I also joined Senator MITCHELL and Senator KENNEDY as a cosponsor of their separate bills providing long-term care assistance.

Since that Congress, we have lost momentum on this issue, and we need to regain it. The need for action has increased in recent years while the debate has shifted to problems in other areas of health care. I am wholeheartedly in support of comprehensive reform in national health care. But reform must include means to address the critical need in the area of long-term care, and we must not allow controversy about other parts of health care reform to delay action on this vital legislation.

There is a strong consensus in the country and in the Congress that long-term care must be a high priority for action. I am introducing this bill today in an effort to put long-term care back on the front burner.

Long-term care is more than a seniors issue. It is a family issue that is of paramount concern to millions of households. American families today are sacrificing to pay for long-term care for parents, grandparents, children, and other relatives. For those who try to keep a loved one at home, the cost may be in the loss of other important opportunities in their lives. An estimated 70 to 80 percent of all long-term home and community care is provided by family members. Most have no respite at all for their efforts. For those who need the services of a nursing facility, the costs are frequently catastrophic, not just for the individual but for a family.

The reality is that only about 5 percent of elderly Americans are in a nursing home at any one time. But the reality also is that these numbers are rising dramatically. In just 9 years, almost a million more senior citizens will be in nursing homes than today. And for every person 65 and older living in a nursing home, there are twice as many who need various kinds of long-term care in the community.

Estimates are that the nursing home population may be as high as 2 million by the year 2000, 3.8 million by the year 2030 and 4.4 million by the year 2040. If current rates continue, 43 percent of persons who turned 65 in 1990 can expect to use a nursing home at some time in their lives. People aged 85 and older are more than 4 times as likely as those aged 65 to 74 to need long-term care services, and this age group is one of the fastest growing in our population.

Most Americans do not realize it, but Medicare pays for very little long-term care. Before Medicaid can help, individuals or couples must exhaust their own resources, becoming poor enough to qualify by spending down their income, savings, and other assets. Long-term care saps the life savings of even the thriftiest middle- and lower-income families and forces countless seniors to close out their lives as paupers.

Today, about half of all long-term care is paid for through private sources, and 97 percent of private funding comes directly out of the pockets of consumers. Even though private sector insurance is sold by more than 130 companies and there are more than a million policyholders, estimates are that less than 3 percent of long-term care is currently being paid by these policies.

The Health Care Financing Administration estimates that under current programs, with no legislative change, total spending for nursing home care will increase from the current approximately $50 billion a year to $129 billion by the year 2000. Unless we act, seniors and their families will be forced to try to shoulder the burden of a major part of that amount out of their own pockets. The burden is growing and we need to address it now.

The Long-Term Care Family Protection Act would put us on the road to a responsible policy on long-term care. It is not as generous as our families need and deserve, but it would be a significant benefit to many individuals who need long-term care. It recognizes that while most people do not spend more than 6 months in a nursing home, those who must spend longer amounts of time fill most nursing home beds and face the greatest financial burdens.

The basic elements of this bill are:

First, nursing facility benefits, after 90 days of care, covered to a maximum of $2,400 a month, with a copayment of $500 a month. This amount is based on an average cost of nursing home care and assumes an individual could plan to supplement this coverage with private insurance or choose to spend more in a more expensive facility. To be eligible, an individual would need to have limitations in the ability to perform three activities of daily living such as eating, bathing, dressing, transferring, or toileting. This would cover about two-thirds of all individuals now in nursing facilities and about 77 percent of all those who have a memory problem or disorientation caused by a disease such as Alzheimer's;

Second, home and community care benefits that include case management; nursing care; personal care services; physical, occupational, speech-language or respiratory therapy; rehabilitative services, adult day care services; respite for family caregivers and other services ordinarily needed to enable a person with a chronic illness or disability to live at home. Eligibility begins with those needing assistance with two activities of daily living and the rate of reimbursement is increased for those needing assistance with four or more activities of daily living; and

Third, children with chronic illness or dependency on medical equipment would be eligible for long-term home care, and individuals with disabilities would be able to "buy-in" to Medicare to receive long-term care services.

I have suggested two funding sources in this legislation, and recognize that additional sources of funding will be needed to fully cover the intended benefits. Payment for long-term home and community care is limited in this bill to the amounts generated by the revenue source for the legislation, and I hope that early in the process of consideration, both the revenues and the benefit levels can be increased. This bill is a beginning. My intent is that we match long-term care service provisions to specific revenues to make sure the program is fully self-financed.

Under this proposed legislation, nursing facility care would be financed through an increase of one-half of 1 percent in the employer and employee portions of Social Security deductions. Home and community care would be financed through elimination of the

cap—$125,000 in 1991—on income subject to the Medicare payroll tax of 1.45 percent.

Soon after I began working on long-term care legislation I received a letter from a constituent in Greenville, IL. In part the letter read:

Last week our neighbor across the street was discovered near death because he had deprived himself of food and air conditioning in order to meet the cost of over $3000 per month to maintain his wife in our local nursing home. This man is 80 years old, owns his own home and at the time he retired 15 years ago, his income plus Social Security and Medicare was very adequate. Keeping his wife in the nursing home has cost him in 2 years $72,000. He has had his home for sale unsuccessfully for over a year. Now she must become a recipient of Medicaid and he of welfare. Just trying to deal with the redtape of all of this is enough to kill the man. How sad for America that it treats it elderly citizens in this way.

Too many Americans are experiencing this sad reality. Too many Americans are being reduced to poverty and deprived of their right to live with dignity because of our lack of a long-term policy. I am confident that we can build the support we need to pass meaningful long-term care legislation in the near future.

Mr. President, I ask that a section-by-section summary of the Long-Term Care Family Protection Act of 1991 and the text of the bill be inserted in the RECORD at this point.

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

S. 2017

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 "Long-Term Care Family Protection Act of 1991".

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

Sec. 1. Short title; table of contents.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New part C long-term care program.

Sec. 102. Conforming and miscellaneous amendments.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY INSURANCE

Sec. 201. Assuring self-financing of benefits under this Act.

Sec. 202. Assuring quality of long-term care.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care.

Sec. 302. Source of revenue for nursing facility care.

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

Sec. 401. Permitting individuals with disabilities to purchase medicare coverage during the 24-month waiting period for Medicare entitlement; permitting individuals with disabilities not entitled to long-term care benefits to buy into Medicare to obtain such benefits.

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

SEC. 101. NEW PART C LONG-TERM CARE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—LONG-TERM CARE PROGRAM

"SCOPE OF BENEFITS

"SEC. 1851. (a) SCOPE OF BENEFITS.—The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on behalf of such individual (subject to the provisions of this part) for—

"(1) home and community care; and

"(2) nursing facility care,

but only if the individual has been determined by a long-term care management agency (or others under arrangement with such agency) to be eligible for such care under section 1852.

"(b) HOME AND COMMUNITY CARE DEFINED.—(1) In this part the term 'home and community care' means the items and services—

"(A) which are home- and community-based items and services described in paragraph (2) furnished to an individual by a home care agency (as defined in section 1861(kk)) (or by others under arrangement with such agency) provided—

"(i) in a place of residence used as such individual's home; or

"(ii) subject to paragraph (3) on an outpatient basis at a—

"(I) hospital;

"(II) skilled nursing facility, or

"(III) rehabilitation center;

"(B) which are furnished under a written plan of care (for furnishing such items and services and other related items and services to such individual) which—

"(i) is established and periodically reviewed and revised by a long-term care management agency (or by others under arrangement with such agency); and

"(ii) reflects the individual's needs identified in the assessment under section 1852.

"(2) The home- and community-based items and services described in this paragraph are as follows:

"(A) Case management services.

"(B) Nursing care provided by or under the supervision of a registered professional nurse.

"(C) Services of a homemaker/home-health aide who has successfully completed a training and competency evaluation program approved by the Secretary.

"(D) Medical social services.

"(E) Personal care services.

"(F) Physical, occupational, speech-language, or respiratory therapy, or rehabilitative services.

"(G) Medical supplies (other than drugs and biologicals) and durable medical equipment, while under such a plan.

"(H) Medical services provided by an intern or resident in training of a hospital affiliated with the home health agency.

"(I) Respite services for family caregivers.

"(J) Adult daycare services (including at least one meal a day).

"(3) Home- and community-based services provided on an outpatient basis at a facility other than an individual's place of residence shall include the items and services described in paragraph (2) but only to the extent that such individual is at a facility to receive case management services or services including equipment not readily available in the individual's place of residence under arrangement with a home-health agency. But such items and services shall not include transportation to and from a facility.

"(c) NURSING FACILITY CARE DEFINED.—In this part, the term 'nursing facility care' means the following items and services furnished to a resident of a nursing facility (as defined in subsection (d)) and (except as provided in paragraphs (3) and (6)) by such facility, excluding, however, any such item or service if it would not be included under section 1861(b) if furnished to an inpatient of a hospital:

"(1) Nursing care provided by or under the supervision of a registered professional nurse.

"(2) Bed and board in connection with the furnishing of such nursing care.

"(3) Physical, occupational, or respiratory therapy, or speech-language therapy, furnished by the facility or by others under arrangements with them made by the facility.

"(4) Medical social services.

"(5) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility as are ordinarily furnished by such facility for the care and treatment of residents.

"(6) Medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of section 1861(l)), under a teaching program of such hospital approved as provided in the last sentence of section 1861(b), and other diagnostic or therapeutic services provided by a hospital with which the facility has such a agreement in effect.

"(7) Such other services necessary to the health of the residents as are generally provided by nursing facilities.

"(d) NURSING FACILITY DEFINED.—In this part, the term 'nursing facility' means—

"(1) a skilled nursing facility (as defined in section 1819(a)), or

"(2) a facility that is a nursing facility (as defined in section 1919(a)) which meets the requirements of section 1819(b)(4)(C) (relating to required nursing care), or

"(3) an intermediate or custodial nursing facility that meets the license requirements of the State in which it operates and such further requirements as provided by the Secretary.

"(e) LONG-TERM CARE MANAGEMENT AGENCY DEFINED.—(1) For purposes of this part, the term 'long-term care management agency' means an agency or organization, or a subdivision of such an agency or organization, which—

"(A) is a government agency; except that the agency or organization may be a private, nonprofit agency or organization with respect to a service area if there is no government long-term care management agency serving the area;

"(B) demonstrates expertise in managing health and social services for elderly individuals and is capable of completing the assessment and plan of care and arranging for services under section 1852 within a reasonable time period following referral to the agency or organization;

"(C) provides only case management services under this title and makes arrangements with a home care agency (with which it does not have a direct or indirect ownership or control interest) to provide long-term home care the agency or organization prescribes;

"(D) has policies, established by a group of professionals (associated with the agency or organization) including one or more registered nurses, one or more physicians, and one or more social workers, to govern the services described in subparagraph (B) which it provides;

"(E) maintains a sufficient number of professional case management teams which—

"(i) are trained in the process of determining eligibility for long-term home and community care and in assessing the needs of chronically dependent individuals, and

"(ii) include—

"(I) at least a registered professional nurse and a licensed social worker,

"(II) in the case of an individual under the age of 19, a physician, and

"(III) such other health professionals (including rehabilitation professionals) as are appropriate;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(i) is licensed pursuant to such law, or

"(ii) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(G) has been designated by the Secretary to perform the functions of such an agency with respect to residents of a State or specified subdivision thereof; and

"(H) meets such other conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council (established under section 1855(i)), may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization and for the effective and efficient operation of the program.

"(2) The Secretary may provide for a temporary waiver of any of the requirements of any subparagraph (other than subparagraph (A) or (B)) of paragraph (1) for such period (not to exceed one year, but subject to renewal) as the Secretary deems appropriate in the case of an agency or organization serving an area that is a rural area or that is designated as a health manpower shortage area under section 332 of the Public Health Service Act if—

"(A) failure to waive such requirements would significantly limit access to long-term home care services to beneficiaries residing in the area,

"(B) the agency or organization has made and continues to make good faith efforts to meet such requirements, and

"(C) waiver of such requirements does not jeopardize the health, safety, or well-being of beneficiaries receiving long-term home care services.

"(f) ELIGIBILITY UNDER THIS PART FOR CERTAIN DEPENDENT CHILDREN AND INDIVIDUALS NOT OTHERWISE ELIGIBLE FOR BENEFITS UNDER PART A.—(1) The provisions of section 1818 (other than subsection (d)) shall apply to this part in the same manner as they apply to part A, except that, with respect to this part, an individual need not be enrolled under part B of this title to be eligible to enroll under this part.

"(2)(A) A dependent child described in subparagraph (B) shall be eligible to receive home and community care under this part.

"(B) For purposes of this part, the term 'dependent child' means a child described in section 226(h) and who is determined by the long-term care management agency (or by others under arrangement with such agency) to be eligible for home and community care as provided under this part.

"ASSESSMENTS AND CERTIFICATIONS OF ENTITLEMENT

"SEC. 1852. (a) IN GENERAL.—In order to be eligible to receive benefits under this part each individual entitled to benefits under this part must receive an assessment and in order to be eligible to receive home and community care such individual must be certified as a chronically dependent individual as described in subsection (d)(1) and in order to be eligible for nursing facility care such individual must be certified as a chronically dependent individual as described in subsection (d)(2).

"(b) INITIAL ASSESSMENT.—The long-term care management agency established under section 1851(e) shall conduct an initial assessment of each individual entitled to benefits under this part in order to determine the level of care to which such individual is eligible.

"(c) CERTIFICATIONS FOR HOME AND COMMUNITY CARE AND NURSING FACILITY CARE.—(1) After conducting an initial assessment on an individual with respect to home and community care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(1). If the case management team determines that such an individual is eligible for care under this part, the team shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)) and shall establish a plan of care for such individual consistent with that individual's degree of impairment.

"(2) After conducting an initial assessment on an individual with respect to nursing facility care as provided under subsection (b), a case management team shall certify whether or not the individual is a chronically dependent individual (as defined in subsection (d)(2)) and shall include in its certification a determination as to whether the degree of impairment of the individual is moderate or severe (as described in subsection (d)(3)).

"(d) CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—(1) In this part, for purposes of determining eligibility for home and community care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 2 of the following activities of daily living: bathing, eating, dressing, toileting, transferring, and eating; or

"(B) has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision of another individual in order—

"(i) to perform 2 or more of the activities of daily living described in subparagraph (A); or

"(ii) to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

"(2) In this part, for purposes of determining eligibility for nursing facility care, the term 'chronically dependent individual' means an individual who—

"(A) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living as described in paragraph (1)(A); and

"(B) has a similar level of disability due to cognitive impairment as provided in paragraph (1)(B).

"(3)(A) For purposes of this part, an individual shall be considered to have a moderate level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 2 of the activities of daily living described in paragraph (1)(A).

"(B) For purposes of this part, an individual shall be considered to have a severe level of impairment if he or she is determined to be unable to perform without substantial assistance from another individual at least 4 of the activities of daily living described in paragraph (1)(A).

"(e) APPEALS.—For review of certifications made under this section, see section 1869.

"PAYMENTS AND COST SHARING

"SEC. 1853. (a) PROSPECTIVE PAYMENT BASIS FOR HOME AND COMMUNITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits are payable under this part for home and community care, amounts determined under a fee schedule (or other prospectively determined reimbursement mechanism) established and annually adjusted by the Secretary under paragraph (2).

"(2) The Secretary shall establish a fee schedule (or other prospectively determined reimbursement mechanism) consistent with the following:

"(A) Except as adjusted under subparagraph (C), the schedule or mechanism shall provide for uniform national payment rates.

"(B) The Secretary shall provide for an annual adjustment in the rates under such schedule or mechanism based on the Secretary's estimate, before the beginning of the year involved, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in long-term home care) for the year will exceed the cost of such mix of goods and services for the preceding year.

"(C) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of payment amounts which are attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor (established by the Secretary) reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. At least every 36 months, the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs for long-term home care in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category.

"(3) The maximum amount of payment that may be made with respect to long-term home and community care provided—

"(A) a chronically dependent individual (other than a dependent child described in section 226(h)) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 50 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a moderate impairment, or

"(ii) 65 percent of the average per diem payment rate for nursing facility care in the State on a full-time basis (determined under paragraph (4)) for days in the month, in the case of an individual determined by a long-term care management agency to have a severe impairment, and

the number of days in the month over which the individual is provided such care; or

"(B) a dependent child described in section 226(h) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 100 percent of the per diem amount that would be payable, under the plan of the State approved under title XIX, during the month if the individual were provided appropriate care in an appropriate institutional setting and if no limit on amount, duration, or scope of covered institutional services applied other than medical necessity, and

"(ii) the number of days in the month over which the individual is provided such care.

The monthly payment limitations established under the previous sentence shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

"(4) Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each State, the State average per diem payment rates that would apply (under paragraph (1)) for nursing facility care in the State on a full-time basis in the year if there were no reduction for coinsurance under this part.

"(b) PER DIEM PAYMENT RATE FOR NURSING FACILITY CARE.—(1) Subject to the succeeding provisions of this section, there shall be paid from the Federal Long-Term Care Trust Fund, in the case of each individual who is covered under the insurance program established by this part and incurs expenses for services with respect to which benefits payable under this part for each day of nursing facility care, after the first 90 days of such care an amount equal to $63 (subject to a maximum payment amount of $1900 per month) after the copayment requirement described in paragraph (2) has been met.

"(2) The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1854. (a) ESTABLISHMENT.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such Fund as provided in this part.

"(b) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Administrator of the Health Care Financing Administration shall be deemed a reference to the Secretary.

"(c) FUNDING.—

"(1) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(A) CERTAIN ADDITIONAL REVENUES.—There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by—

"(i) section 301, and

"(ii) section 302,

of the Long-Term Care Family Protection Act of 1991.

"(B) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than such taxes.

"(2) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (d)(3).

"(d) EXPENDITURES.—

"(1) HOME AND COMMUNITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(a) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(i).

"(2) NURSING FACILITY CARE.—Payments in each calendar year from the Trust Fund as determined under section 1853(b) are hereby authorized and appropriated from the amounts determined under subsection (c)(1)(A)(ii).

"(3) LONG-TERM CARE ADVISORY COUNCIL.—Amounts in the Trust fund shall be available, as provided by section 1855(n), to carry out the functions of the Long-Term Care Advisory Council.".

(b) HOME CARE AGENCY DEFINED.—(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"HOME CARE AGENCY

"(kk) The term 'home care agency' means a public agency or private organization, or a subdivision of such an agency or organization, which is a home health agency (as defined in subsection (m)) or—

"(1) is primarily engaged in providing services of homemaker/home health aides and personal care aides;

"(2) maintains clinical records on all patients;

"(3) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature—

"(A) is licensed pursuant to such law, or

"(B) is approved, by the agency of such State or locality, responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(4) meets the conditions of participation described in section 1891(g) and such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; and

"(5) meets such additional requirements as the Secretary finds necessary for the effective and efficient operation of the program.".

(2) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(3) Section 1861(w)(1) of such Act (42 U.S.C. 1395x(w)(1)) is amended—

(A) by inserting "nursing facility," after "skilled nursing facility", and

(B) by inserting "home care agency," after "home health agency,".

(4) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (kk)".

(5) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or home care agency" after "home health agency", and

(B) in the second sentence, by inserting "home care agency," after "home health agency,".

(6) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(dd)(2)" and inserting "1861(dd)(2), or 1861(kk)".

(7) Section 1891 of such Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), the previous provisions of this section shall apply to home care agencies in the same manner as they apply to home health agencies.

"(2) In applying paragraph (1) with respect to home care agencies:

"(A) Any reference to a home health agency, home health aide, section 1861(m), or section 1861(o) (or paragraph (3) thereof) is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide, and section 1851(b), or section 1861(mm) (or paragraph (2) thereof), respectively.

"(B) Any dates or deadlines specified in the previous provisions of this section shall be 1 year after the date otherwise specified.".

(c) TRUST FUND CONFORMING AMENDMENTS.—(1) Section 201(a) of such Act (42 U.S.C. 410(a)) is amended, in paragraphs (3) and (4), by inserting "and section 1854(c)(1)(A)(ii)" after "of this section".

(2) Section 1817(a) of such Act (42 U.S.C. 1395i(a)) is amended—

(A) in paragraph (1), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the semicolon, and

(B) in paragraph (2), by inserting ", less the amounts specified in section 1854(c)(1)(A)(i)" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, but no payments shall be made under title XVIII of the Social Security Act for services furnished under part C of such title before January 1, 1994.

SEC. 102. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) ENTITLEMENT TO BENEFITS OF SOCIAL SECURITY BENEFICIARIES.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(1) in subsections (a) and (b), by inserting ", and care benefits under part C," after "entitled to hospital insurance benefits under part A";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by redesignating paragraph (2) as paragraph (3), and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) entitlement of an individual to benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part C of title XVIII on his behalf for home and community care and nursing facility care furnished him in the United States during such month; and";

(D) in subsections (e)(1), (e)(4), and (f), by inserting "and long-term care benefits" after "hospital insurance benefits";

(E) in subsection (e)(3), by inserting "and long-term care benefits" after "hospital insurance benefits" the first place it appears;

(F) in subsection (e)(3), by inserting "and such long-term care benefits" after "hospital insurance benefits" the second place it appears; and

(G) in subsection (g)(1), by inserting "and for long-term care benefits under part C of such title" after "part A of title XVIII".

(b) ENTITLEMENT TO BENEFITS OF DEPENDENT CHILDREN.—Section 226 of such Act (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (i), and

(2) by inserting after subsection (g) the following new subsections:

"(h) Every individual who—

"(1) is under 19 years of age,

"(2) is—

"(A) a citizen of the United States, or

"(B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month involved,

"(3) has been certified by a trained case management team of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of such a physician, any physician)—

"(A) to be chronically dependent or disabled and to be unable to perform (without human assistance or supervision) due to the individual's chronic dependence or disability at least 2 age-appropriate activities of daily living (as defined in section 1852(d)(1)), or

"(B) to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability,

"(4) has filed an application for benefits under this subsection, and

"(5) is not otherwise eligible for benefits under part A of title XVIII,

shall be entitled to benefits for long-term home and community care under part C of title XVIII for each month beginning with the first month the individual meets the requirements of this subsection and ending with the month following the month in which the individual no longer meets such requirements.".

(c) ENTITLEMENT TO BENEFITS OF RAILROAD RETIREMENT BENEFICIARIES.—Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)) is amended—

(1) in paragraph (1)—

(A) by striking "and outpatient hospital diagnostic services" and inserting "outpatient hospital diagnostic services, home and community care, and nursing facility care", and

(B) by striking "parts A and C" and inserting "parts A, C, and D"; and

(2) in paragraphs (4) and (5), by striking "part A" each place it appears and inserting "parts A and C".

(d) OTHER INDIVIDUALS.—The provisions of section 103 of the Social Security Amendments of 1965 shall apply to community care and nursing facility care under part C of title XVIII of the Social Security Act (and the Long-Term Care Trust Fund established under such part) in the same manner as such provisions apply to hospital insurance benefits under part A of title XVIII of such Act (and the Federal Hospital Insurance Trust Fund established under such part).

(e) DETERMINATIONS AND APPEALS.—Section 1869 of the Social Security Act (42 U.S.C. 1395ff) is amended—

(1) in subsection (a), by striking "or part B" each place it appears and inserting ", part B, or part C";

(2) in subsection (a), by inserting "or part C" after "a claim for benefits under part A";

(3) in subsection (b)(1)(C), by striking "or part B" and inserting ", part B, or part C";

(4) in subsection (b)(1), by striking "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a negative certification under section 1852(b), or the determination of a level of impairment under section 1852(b)(1),"; and

(5) in subsection (b)(2)(A), by inserting "or part C" after "part A".

(f) MISCELLANEOUS.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to home and community care and nursing facility care provided on or after January 1, 1994.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

SEC. 201. ASSURING SELF-FINANCING OF BENEFITS UNDER THIS ACT.

(a) STATEMENT OF PURPOSE.—The purpose of the amendment made by this section is to assure that all the additional costs to the Federal Government for home and community care resulting from the enactment of this Act do not exceed the additional revenues derived from the amendments made by section 301 of this Act.

(b) ASSURING SELF-FINANCING OF BENEFITS.—Section 1854 (42 U.S.C. 1395c) of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new subsection:

"(e)(1) Not later than 3 months before the effective date for 1994 and not later than October 1 of 1994 (and of each succeeding fiscal year), the Secretary shall, in close consultation with the Long-Term Care Advisory Council, estimate the amount (if any) for the transition period or for the succeeding fiscal year, respectively, by which—

"(A) the amounts of revenues to be transferable into the Trust Fund under subsection (c)(1)(A)(i) in that period or succeeding fiscal year exceeds or is less than—

"(B) the sum of—

"(i) the amount to be expended during that period or succeeding fiscal year under subsection (d)(1),

"(ii) the amount of claims expected to be received during that period or fiscal succeeding year under subsection (d)(1); and

"(iii) with respect to the provision of home and community care, any additional administrative costs to be expended during that period or succeeding fiscal year under this title, or under part B of title XI, as a result of the enactment of the Long-Term Care Family Protection Act of 1991.

In this paragraph, the term 'effective date' means January 1, 1994, and the term 'transition period' means the period beginning on the effective date and ending with the last day of the fiscal year in which the effective date occurs.

"(2) If the Secretary estimates under paragraph (1), with respect to a period or fiscal year, that a deficit exists, then—

"(A) the amount that is payable for home and community care furnished to any individual on each day in the period or fiscal year shall be reduced, subject to the limit established in paragraph (3), by such a copayment amount as the Secretary estimates to be necessary to reduce by ½ the amount of such deficit, and

"(B) the payment limits established under section 1853(a) for months in such period or fiscal year shall be proportionally reduced by such a percentage as the Secretary estimates to be necessary to achieve the same savings as are achieved from the application of subparagraph (A).

"(3) Any copayment amount established under paragraph (2)(A) may not exceed 5 percent of the Secretary's estimate of the national average daily payment rate for home and community care under this part for the period in which the copayment amount will be applied.".

SEC. 202. ASSURING QUALITY OF LONG-TERM HOME CARE.

(a) IN GENERAL.—Part C of title XVIII of the Social Security Act as added by title I of this Act is amended by adding at the end the following new section:

"LONG-TERM HOME AND COMMUNITY CARE QUALITY ASSURANCE

"SEC. 1855. (a) LONG-TERM HOME AND COMMUNITY CARE CONSUMERS' BILL OF RIGHTS.—The Secretary shall promulgate, by regulation, a long-term home and community care consumers' bill of rights, which shall recognize the following as rights of long-term home and community care consumers which may be asserted by the home and community care consumer receiving care under this part or the consumer's representative or guardian:

"(1) To be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle.

"(2) To be fully and promptly informed orally and in writing—

"(A) of services to be provided and any limits regarding availability of services from the home health agency or home care provider;

"(B) of whether services may be provided under this title or are covered by other sources, and whether uncompensated care may be available;

"(C) of charges for services and billing procedures, including an itemized copy of each bill submitted to any payor;

"(D) of changes in services or charges; and

"(E) of the procedures to follow if rights are violated or services are not satisfactory, including the right to a hearing before an entity other than a home health agency or a long-term care management agency.

"(3) To take an active part in creating and changing the plan of care.

"(4) To take an active part in selecting and evaluating the home health agency and the home care provider, and in selecting and evaluating treatment, care, and services.

"(5) To be served by individuals who are properly trained and competent to perform their duties.

"(6) To be fully informed by a home care provider of the provider's assessment of the home care consumer's condition, unless contradicted by documentation provided by a professional practitioner in the home care consumer's record.

"(7) To refuse all or part of any treatment, care, or service, and to be informed of the likely consequences of such refusal.

"(8) To receive treatment, care, and services in compliance with all State and local laws and regulations without discrimination in the provision or quality of services based

on race, religion, gender, age, disability, or creed (except as provided under the Age Discrimination Act of 1975 (Public Law 94-135; 42 U.S.C. 6101 et seq.)), or because of a change in the source of payment.

"(9) To be free from mental and physical abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

"(10) To receive respect and privacy in the home care consumer's treatment, care, and services in caring for personal needs, in communications, and in all daily activities.

"(11) To be assured respect for the home care consumer's property rights.

"(12) To be assured confidential treatment of personal, financial, and medical records and to approve or refuse their release to any individuals outside the agency except as otherwise required by law or third-party payment contract.

"(13) To voice grievances and recommend changes in policies and services to staff or outside representatives of the consumer's choice and to be assisted in doing so when assistance is needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, by the home health agency, or by the home care provider.

"(14) To be free to fully exercise the consumer's civil rights and to be assisted in doing so when assistance is needed.

"(15) To receive promptly written notice from the long-term care management agency if treatment, care or services are to be reduced or terminated, and assistance to assure a smooth transition in services consistent with the welfare of the home care consumer.

"(16) To be promptly notified by the home health agency of acceptance or denial of services and the reasons for such denial.

"(b) HOME HEALTH AGENCY QUALITY ASSURANCE REQUIREMENTS.—(1) In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive funding for the provision of long-term home and community care services under this part, a home health agency must within 6 months after the date of the publication of such regulations—

"(A)(i) comply with the home and community care consumer's bill of rights promulgated under subsection (a); and

"(ii) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency or other providers under this part;

"(B)(i) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers regarding the provision of long-term home and community care services; and

"(ii) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(C) ensure that each long-term home and community care provider employed by or under contract with the home health agency receives training—

"(i) sufficient to meet a level of proficiency established by the Secretary in regulations (in consultation with representatives of the elderly, individuals with disabilities, and children, home health agencies, and experts in the fields of geriatric nursing, pediatric nursing, geriatric social work, pediatric social work, mental health, rehabilitation, and other appropriate health care professionals) to be appropriate in content and amount;

"(ii) which develops separate levels of proficiency in and is reflective of the range of skills required of long-term home and community care providers providing different levels of long-term home and community care services; and

"(iii) the extent of which shall be made available on request to each long-term home and community care consumer with respect to the amount of training or level of certification achieved by each long-term home and community care provider;

"(D) supervise all long-term home and community care providers employed by or under contract to the home and community health agency in accordance with regulations promulgated by the Secretary (including regular random onsite supervisory visits by registered nurses or other appropriate health care professionals); and

"(E) perform annual evaluations of quality of services rendered by long-term home and community care providers employed by or under contract to the home health agency which includes and documents long-term home and community care consumer involvement.

"(2) In addition to such other requirements as may apply, to receive funding for the provision of durable medical equipment services under this title, a home health agency or long-term home and community care provider shall in each case of a long-term home and community care consumer to which such services are provided—

"(A) issue written instructions for the operation of such equipment;

"(B) provide sufficient training to the long-term home and community care consumer, the long-term home and community care consumer's family, and staff to allow correct, safe operation of all such equipment; and

"(C) formulate an emergency plan appropriate to the services provided to the long-term home and community care consumer.

In the previous sentence, the term 'durable medical equipment services' means supply, maintenance, or training in the operation of durable medical equipment.

"(c) LONG-TERM CARE MANAGEMENT AGENCY QUALITY ASSURANCE REQUIREMENTS.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive payment for the provision of case management services under this part, a long-term care management agency must within 6 months after the date of the publication of such regulations—

"(1)(A) comply with the long-term home and community care consumers' bill of rights promulgated under subsection (a); and

"(B) provide a written copy of such bill of rights to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency under this title;

"(2)(A) implement procedures for promptly reviewing and resolving grievances of long-term home and community care consumers; and

"(B) provide a written copy of such procedures to each long-term home and community care consumer (or the consumer's representative or guardian) who receives long-term home and community care services from the home health agency;

"(3) provide to each long-term home and community care consumer (or the consumer's representative or guardian) a written statement of the services to be provided to the long-term home and community care consumer and the schedule for provision of such services, as agreed upon by the long-term home and community care consumer;

"(4) provide to each long-term home and community care consumer a clear written statement as to how the consumer, or the consumer's representative or guardian, may appeal benefit and level decisions made by the agency;

"(5) maintain procedures that assure prompt access to long-term home and community care services for eligible long-term home and community care consumers;

"(6) ensure that personnel providing case management services to long-term home and community care consumers have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council; and

"(7) establish and implement case management processes which include—

"(A) a plan of care which states reasonable and measurable client objectives and long-term home and community care services to be provided to meet the objectives;

"(B) a plan of care that employs outcome measures insofar as they are appropriate and available for each long-term home and community care consumer served;

"(C) methods for periodic review of—

"(i) a long-term home and community care consumer's needs; and

"(ii) the plan of care for a long-term home and community care consumer;

"(D) methods for follow-up and on-going monitoring of patient and services delivery; and

"(E) a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

"(d) SURVEY REQUIREMENTS.—(1) The Secretary shall, in consultation with the Long-Term Care Advisory Council, promulgate regulations which establish procedures for surveying long-term care management agencies regarding compliance with conditions of participation established by this section.

"(2) Regulations promulgated under paragraph (1) shall include—

"(A) survey methodologies which include—

"(i) patient-oriented assessment techniques;

"(ii) process and outcome criteria for measuring the compliance of long-term care management agencies with conditions of participation under this title; and

"(iii) randomized, onsite review of a representative sample of long-term home and community care consumers to evaluate compliance with applicable conditions of participation;

"(B) a graduated schedule of unannounced surveys that provides surveys—

"(i) not less than every 9 months for long-term care management agencies that are determined by the Secretary to have a substandard record of compliance with applicable conditions of participation;

"(ii) not less than every 15 months for long-term care management agencies that are determined by the Secretary to have consistently satisfactory records of compliance with the applicable conditions of participation; and

"(iii) not less than every 12 months for other such agencies.

"(3) The results of surveys performed under this subsection shall be provided to the Long-Term Care Advisory Council and community advisory boards established under subsection (e)(1) and shall be made available to others in accordance with this title.

"(4)(A) The Secretary may enter into a contract with a State under which a State, which has survey and enforcement procedures which are determined by the Secretary to be at least equivalent to the survey and enforcement procedures which the Secretary would otherwise apply under this section, shall conduct surveys of compliance of long-term care management agencies (other than those owned or operated by a State) with the requirements of this section and provide for the annual transmittal to the Secretary of the results of such State surveys.

"(B) The Secretary shall develop and implement procedures for annually validating a representative sample of surveys of long-term care management agencies performed by States under subparagraph (A).

"(C) Procedures developed under subparagraph (B) shall provide for review of such surveys within 1 month after the performance of such a survey.

"(e) QUALITY ASSURANCE SYSTEM THROUGH PEER REVIEW ORGANIZATIONS.—(1)(A) The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care.

"(B) In awarding, administering, and evaluating contracts entered into with peer review organizations of the performance of monitoring under this subsection, the Secretary shall—

"(i) take into consideration information contained in reports issued by Consumer Boards under paragraph (2)(C)(iii);

"(ii) require that at least ¾ of the level of effort of a peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care provided;

"(iii) require that the remainder of the effort of a peer review organization shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the home and community care consumer, of the appropriateness and necessity of care denied under this title;

"(iv) require that any review by a peer review organization of a home health agency or a home and community care management agency include a representative sample of documentary reviews and personal interviews of home and community care consumers and home and community care providers;

"(v) require that if any portion of a peer review organization's responsibilities are provided by a third party under contract with the peer review organization the fulfillment of such responsibilities are fully integrated with other functions of such peer review organization; and

"(vi) require that the membership of a peer review organization board include representatives of all types of home and community care providers reviewed by the peer review organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

"(C) A peer review organization performing monitoring functions under this subsection may not be—

"(i) a home health agency;

"(ii) a home and community care management agency;

"(iii) a home and community care provider; or

"(iv) a fiscal intermediary.

"(D) The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities under this paragraph.

"(E) A peer review organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies who have been found to have not met professionally recognized standards of care.

"(2)(A) The Secretary shall establish a Consumer Board in each State within 1 year after the date of the enactment of this section.

"(B)(i) A Consumer Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary based on recommendations from organizations in each State representing home and community care consumers who are entitled to benefits under this title. Members must be entitled to benefits under this title or be representatives of organizations which represent home and community care consumers who are entitled to such benefits.

"(ii) Limited staff support and training shall be provided to a Consumer Board by the Secretary as is necessary to carry out its functions.

"(C) A Consumer Board shall—

"(i) monitor the review activities of peer review organizations by—

"(I) providing input into the awarding of contracts to peer review organizations; and

"(II) evaluating the contracts of peer review organizations and the mechanisms established to monitor home health agencies and home and community care management agencies;

"(ii) have access to—

"(I) information of peer review organizations,

"(II) results of State surveys conducted under subsection (d)(4)(A), and

"(III) information from toll-free hotlines (established under paragraph (3)), after protection of the identities of individual health care providers and consumers; and

"(iii) file an annual report with the Secretary and the chief executive officer of the State on October 1 of each year regarding the performance during the previous year of peer review organizations.

"(D) A Consumer Board shall not be involved in the day-to-day operation of peer review organizations.

"(3) Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

"(4) The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

"(5) Consumer Boards established under paragraph (2) and peer review organizations shall coordinate with State and local government officials to educate home and community care consumers regarding quality assurance programs and the various forms of assistance available to home and community care consumers with quality assurance problems under this title.

"(f) COMMUNITY ADVISORY BOARDS AND ADDITIONAL QUALITY ASSURANCE.—(1) Each State shall establish and appoint (based on the recommendations of long-term home and community care consumers, their representatives, and organizations representing these individuals and pursuant to regulations of the Secretary) members to a community advisory board (in this subsection referred to as the 'board') for each long-term care management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term home and community care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

"(2) Each board shall—

"(A) monitor the activities of the long-term care management agencies,

"(B) provide input in the selection of long-term care management agencies,

"(C) file a report with the Secretary on the findings of its monitoring not less frequently than annually, and

"(D) have prompt access to results of surveys and of investigations of complaints of the long-term care management agency with respect to which it was established and home health agencies providing long-term home and community care services to individuals in the area served by the agency.

Each report under subparagraph (C) shall be reviewed and its findings incorporated into the survey of long-term care management agencies under subsection (d).

"(3)(A) The Secretary shall develop and implement methods for monitoring the continuity of care provided to long-term home and community care consumers throughout episodes of illness and across care settings.

"(B) The Secretary shall develop and implement outcome-oriented criteria for use in determining quality assurance in long-term home and community care services.

"(g) SANCTIONS.—(1) The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions to be applied to long-term care management agencies providing case management services under this title for failing to comply with this section.

"(2) Sanctions and procedures established under paragraph (1) shall—

"(A) include civil monetary penalties (under the procedures described in section 1128A), a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies;

"(B) include specific criteria as to when and how each sanction is to be applied and the amounts of any fines and penalties;

"(C) be designed so as to minimize the time between the identification of violations and final imposition of the sanctions;

"(D) provide for a plan and schedule for corrective action by home health agencies found to be out of compliance with conditions of participation; and

"(E) require public disclosure of failures of home health agencies and long-term care management agencies to meet professionally recognized standards of care, and the sanctions imposed for such failures.

"(3) The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy, and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

"(h) DEVELOPMENT OF LICENSING POLICIES.—The Secretary shall—

"(1) encourage States to develop policies and procedures for the licensing of home health agencies;

"(2) gather information relating to activities of States in implementing licensing policies and procedures; and

"(3) issue a biannual report which summarizes information gathered under paragraph (2).

"(i) LONG-TERM CARE ADVISORY COUNCIL.—(1)(A) There shall be established, no later than 60 days after the date of the enactment of this section, an independent body to be known as the Long-Term Care Advisory Council (in this subsection referred to as the 'Council').

"(B) The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, rehabilitation, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care providers and their representatives, professionals with expertise in long-term care (including nurses, social workers, and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and State and local health and social service agency representatives. Appointments to the Council shall be for a term of not to exceed 4 years.

"(2) The purposes of the Council are—

"(A) to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part,

"(B) to review regularly the implementation of such provisions, and

"(C) to recommend to the Secretary and the Congress any needed changes or refinements to such provisions or regulations promulgated to implement such provisions.

The Secretary shall regularly and closely consult with the Council in the implementation and administration of the provisions of this part, including the issuance of regulations to carry out such provisions. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter, for these purposes.

"(j) STUDIES.—(1)(A) The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part.

"(B) Studies referred to in subparagraph (A) shall include examination of—

"(i) methodologies which develop and evaluate outcome standards in the provision of long-term home and community care services;

"(ii) mechanisms for ensuring and monitoring long-term home and community care quality by episode of care;

"(iii) the role of case management for ensuring quality in provision of long-term home and community care services;

"(iv) the differing approaches to and responsibility for the development of a plan of long-term home and community care services; and

"(v) the impact on quality of care of—

"(I) the separate reimbursement for supply of durable medical equipment to long-term home and community care consumers; and

"(II) the training of long-term home and community care consumers and their families in the operation of such equipment.

"(2) The Secretary shall report to Congress, by not later than 2 years after the date of the enactment of this part, on the findings of studies funded under paragraph (1).

"(k) REPORTS ON QUALITY ASSURANCE SYSTEM.—(1) The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year regarding the nature and performance during the preceding fiscal year of the home and community care quality assurance system established under subsection (e).

"(2) Each report required by paragraph (1) shall include information regarding—

"(A) the number of individuals served by long-term home and community care providers subject to the provisions of this section;

"(B) the amount of Federal funds expended for long-term home and community care services under this title;

"(C) examination of noncompliance with the provisions of this section by long-term home and community care providers who received funds under this title and the sanctions imposed;

"(D) the economic impact on home health agencies of requiring them to comply with the requirements of this section;

"(E) the impact of the requirements of this section on availability of long-term home and community care services in rural areas and to members of minority and ethnic groups;

"(F) the concerns and recommendations of community advisory boards and Consumer Boards; and

"(G) the status of studies undertaken under subsection (j).

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

"(1) The term 'long-term home and community care consumer' means a chronically dependent individual who is provided long-term home and community care services.

"(2) The term 'long-term home and community care provider' means an individual who provides long-term home and community care services directly to a home and community care consumer.

"(3) The term 'long-term home and community care services' means home health services and long-term home and community care.

"(4) The term 'Consumer Board' means a Consumer Board established under subsection (e)(2).

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

SEC. 301. SOURCE OF REVENUE FOR HOME AND COMMUNITY CARE.

(a) ELIMINATION OF LIMIT ON WAGES OR SELF-EMPLOYMENT INCOME SUBJECT TO HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Section 230 of the Social Security Act (42 U.S.C. 430) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1986, this section shall not have the effect of limiting the total amount of any individual's net earnings from self-employment or remuneration for employment which is subject to the hospital insurance tax under section 1401(b), 3101(b), or 3111(b) of the Internal Revenue Code of 1986; and sections 1402(b)(1) and 3121(a)(1) of such Code shall not apply in determining the amount of any individual's wages and self-employment income for purposes of that tax."

(2) CONFORMING AMENDMENTS.—

(A) Section 1402(b) of the Internal Revenue Code of 1986 (defining self-employment income) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(B) Section 3121(a) of such Code (defining wages) is amended by striking "except that such term shall not include" in the matter preceding paragraph (1) and inserting "except that (subject to section 230(e) of the Social Security Act) such term shall not include".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

SEC. 302. SOURCE OF REVENUE FOR NURSING FACILITY CARE.

(a) INCREASE IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(2) TAX ON EMPLOYERS.—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
1992	6.2 percent
1993 or thereafter	6.7 percent ."

(b) TAX ON SELF-EMPLOYMENT INCOME.—The table in section 1401(a) of the Internal Revenue Code of 1986 (relating to rate of tax on self-employment income for old-age survivors, and disability insurance) is amended to read as follows:

"In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1989.	January 1, 1993.	12.4
December 31, 1992.		13.4."

TITLE IV—MEDICARE BUY-IN FOR INDIVIDUALS WITH DISABILITIES

SEC. 401. PERMITTING INDIVIDUALS WITH DISABILITIES TO PURCHASE MEDICARE COVERAGE DURING THE 24-MONTH WAITING PERIOD FOR MEDICARE ENTITLEMENT; PERMITTING INDIVIDUALS WITH DISABILITIES NOT ENTITLED TO LONG-TERM CARE BENEFITS TO BUY INTO MEDICARE TO OBTAIN SUCH BENEFITS.

(a) DISABILITY BUY-IN.—Section 1818(a) of the Social Security Act (42 U.S.C. 1395i-2(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) has not attained the age of 65 and would be described in section 226(b)(2) if the phrases ', and has for 24 calendar months been entitled to,' ', and has been for not less than 24 months,' and 'including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted from subparagraphs (A), (B), and (C)(ii), respectively, of such section,";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) LIMITED BUY-IN FOR LONG-TERM HOME CARE BENEFITS.—Section 1818(a) of such Act

(42 U.S.C. 1395i-2(a)) as amended by subsection (a), is further amended by adding at the end the following: "In enrolling under this section, for months beginning with the first month that begins 1 year after the date of the enactment of this sentence, an individual has the option of enrolling for all benefits under this part or, for long-term care benefits described in part C of this title, or for both.".

(c) PREMIUMS.—Section 1818(d) of such Act (42 U.S.C. 1395i-2(d)) is amended—

(1) in the first sentence of paragraph (2), by striking "for months occurring in the following calendar year" and inserting before the period the following: "for benefits (other than for long-term care benefits described in part C of this title) for months occurring in the following calendar year for individuals described in subsection (a)(1)"; and

(2) by adding at the end the following new paragraphs:

"(4) The Secretary shall, during the next to last calendar quarter of each year, determine and promulgate the dollar amount which shall be applicable for premiums (other than for long-term care benefits described in part C of this title) for months occurring in the following year for individuals described in subsection (a)(1). Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals will equal 100 percent of the total of the benefits and administrative costs which he estimates will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals (other than with respect to long-term care benefits). In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.

"(5) The Secretary shall, during the first calendar quarter of 1993 and during the next to last calendar quarter of each year (beginning with 1993), determine and promulgate the dollar amount which shall be applicable for premiums for individuals enrolled for long-term care benefits under this section for months occurring in 1993 or in the following year, respectively. Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such period or calendar year with respect to individuals so enrolled will equal 50 percent of the benefits and administrative costs which will be payable from the Federal Long-Term Care Trust Fund for long-term care benefits provided and related administrative costs incurred in the period of year with respect to individuals so enrolled under this section. In calculating such amount the Secretary shall include an appropriate amount for the contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning on or after January 1, 1993.

LONG-TERM CARE FAMILY PROTECTION ACT
SECTION-BY-SECTION SUMMARY

TITLE I—HOME AND COMMUNITY CARE AND NURSING FACILITY CARE UNDER THE MEDICARE PROGRAM

Sec. 101. New Part C Long-Term Care Program

Scope of Benefits

SEC. 1851. Establishes an entitlement in the Social Security Act, in a new Part C of Medicare, for payment for home and community care and nursing facility care for individuals determined by a long-term care management agency to be eligible for such care.

Home and Community Care Defined

Home and community care consists of items and services furnished by a home care agency (or others under arrangement with such an agency) and provided in a place of residence or on an outpatient basis at a hospital, skilled nursing facility or rehabilitation center. Items or services must be furnished under a written plan of care reflecting the invididual's needs as determined in an assessment by a long-term care management agency. The written plan of care is to be periodically reviewed and revised by the long-term care management agency.

Home- and community-based items and services include case management services; nursing care provided by or under the supervision of a registered professional nurse; services of homemaker/home-health aide who has completed a training and competency evaluation program approved by the Secretary; medical social services; personal care services; physical, occupational, speech, or respiratory therapy, or rehabilitative services; medical supplies (other than drugs and biologicals) and durable medical equipment, while under the plan; medical services provided by an intern or resident in training of a hospital affiliated with the home health agency; respite services for family caregivers; adult daycare services (including at least one meal a day).

Home- and community-based services at a facility other than an individual's place of residence shall be provided to the extent the individual is there to receive case management or other services not readily available in the individual's place of residence, but shall not include transportation to and from a facility.

Nursing Facility Care Defined

Nursing facility care consists of items and services that would be provided to hospitals, inpatients under Medicare, including nursing care provided by or under the supervision of a registered professional nurse; bed and board; physical, occupational, respiratory, or speech-language therapy furnished by the facility or by others under arrangement with the facility; medical social services; drugs, biologicals, supplies, appliances and equipment as ordinarily furnished by the facility for the care and treatment of residents; medical services provided by an intern or resident-in-training of a hospital with which the facility has a transfer agreement under Medicare, under an approved teaching program, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement; and other services necessary to the health of residents as are generally provided by nursing facilities.

Nursing Facility Defined

A nursing facility is a skilled nursing facility as defined under Part A of Medicare; a nursing facility as defined under Medicaid; or an intermediate or custodial nursing facility that meets the license requirements of the state in which it operates and such further requirements as provided by the Secretary.

Long-Term Care Management Agency Defined

A long-term care management agency is a government agency or organization (or its subdivision, or a private nonprofit agency or organization if there is no government long-term care management agency serving the area) that demonstrates expertise in managing health and social services for elderly individuals and is capable of completing an assessment and arranging for services within a reasonable period of time following a referral. The long-term care management agency must provide only case management services and must make arrangements with a home care agency (with which it does not have direct or indirect ownership or control) to provide prescribed home care.

The long-term care management agencies must have policies established by a group of professionals, including one or more registered nurses, one or more physicians, and one or more social workers. It must maintain a sufficient number of case management teams trained in the process of determining eligibility and assessing the needs of chronically dependent individuals. Such teams shall include at least a registered professional nurse and a licensed social worker; in the case of the assessment of an individual under 19, a physician; and other health professionals (including rehabilitation professionals) as are appropriate. Where state and local law provides for the licensing of agencies or organizations of this nature, the long-term care management agency must be licensed pursuant to such law or approved by the licensing agency as meeting licensing standards.

The long-term care management agency must be designated by the Secretary and must meet conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council, may find necessary.

The Secretary may temporarily waive the requirements for a long-term care management agency (with the exception that it be a government or private nonprofit agency or organization with demonstrated expertise and ability to carry out its responsibilities in a reasonable period of time) in the case of an agency or organization serving a rural area or designated health manpower shortage area. A waiver would be granted for one year at a time if failure to grant such a waiver would significantly limit access to long-term home care and if the agency or organization is making good faith efforts to meet the requirements of this part.

Eligibility for Certain Dependent Children and Others

Individuals eligible under this part are those persons eligible under Part A of Medicare and dependent children under age 19 who are determined by the long-term care management agency to be eligible for home and community care under this part.

Assessments and certifications of entitlement

Initial Assessment

SEC. 1852. Each individual entitled to benefits under this part must receive an assessment and be certified as a chronically dependent individual. The long-term care management agency shall conduct an initial assessment of each individual to determine the level of care to which such individual is eligible.

Certifications

Following the initial assessment, a case management team shall certify whether or

not the individual is a chronically dependent individual eligible for home and community care or for nursing home care. The team shall include in its certification a determination as to whether the degree of impairment is moderate or severe. In the case of certification for home and community care, the team shall establish a plan of care consistent with the degree of impairment.

Chronically Dependent Individual Defined

A chronically dependent individual is an individual who is unable to perform (without substantial assistance from another individual) multiple activities of daily living (bathing, dressing, toileting, transferring, or eating) or has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision to perform 2 or more of the activities of daily living or to remain in the home or community without causing harm to self or others because of inappropriate behavioral patterns.

For purposes of determining eligibility for nursing facility care, the term chronically dependent individual means an individual who is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living or has a similar level of disability due to cognitive impairment.

A person shall be considered to have a moderate level of impairment if he or she is unable to perform at least 2 of the activities of daily living; an individual shall be considered to have a severe level if impairment if he or she is unable to perform at least 4 of the activities of daily living.

Appeals of certification decisions shall be carried out under provisions applicable for appeals of benefits for Medicare Part A.

Payments and cost sharing

Prospective Payment Basis for Home and Community Care

SEC. 1853. Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing home and community care for eligible persons under this part. Such amounts shall be determined under a fee schedule or other prospectively determined reimbursement mechanism established and annually adjusted by the Secretary. The fee schedule or reimbursement mechanism shall provide for uniform national payment rates.

The Secretary shall provide for annual adjustment in the rates based on an estimate, before the beginning of the year, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in representative wages and prices) for the year will exceed the cost of such mix of goods and services for the preceding year.

The Secretary shall adjust the proportion of payment amounts attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. The Secretary shall update this factor at least every 36 months on the basis of a survey of the wages and wage-related costs for long-term home care in the United States. To the extent feasible, such survey shall measure the earnings and paid hours of employment by occupational category.

The maximum monthly payment that may be made with respect to long-term home and community care provided a chronically dependent individual (other than a dependent child) with a moderate impairment is 50% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care. For an individual determined to have a severe impairment, the maximum monthly amount is 65% of the average per diem rate for full-time nursing facility care in the state multiplied by the days in the month the individual is provided such care.

The amount of payment for a dependent child in a month is 100% of the per diem amount that would be payable in a month under the state's plan for Medicaid if the individual were provided appropriate care in an institutional setting and if there were no limit on amount, duration or scope of covered services applied other than medical necessity, multiplied by the number of days in the month the individual is provided such care.

Monthly payment limitations shall be applied on an average basis with respect to long-term home and community care furnished over any period of 4 consecutive months.

Before the beginning of each calendar year, the Secretary shall estimate, for nursing facilities located in each state, the state average per diem payment rates that would apply for nursing facility care in the state on a full-time basis if there were no reduction for coinsurance under this part.

Per Diem Payment Rate for Nursing Facility Care

Amounts shall be paid from the Federal Long-Term Care Trust Fund for the expenses of providing nursing facility care for eligible persons under this part. The amount available to an individual shall be, following the first 90 days of nursing facility care, $63 for each day of care (subject to a maximum payment amount of $1900 per month) after the copayment requirement has been met. The copayment requirement for nursing facility care under this part shall be $500 for each 30 days of care in such a facility.

Federal long-term care trust fund

Establishment

SEC. 1854. There is created on the books of the Treasury of the U.S. a Federal Long-Term Care Trust Fund. The Trust Fund shall consist of gifts and bequests and such amounts as may be deposited in or appropriated to the Fund as provided in this part.

Funding

There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as a result of amendments made by this Act. Not less frequently than monthly, amounts estimated by the Secretary of the Treasury to represent the taxes paid to or deposited in the Treasury as a result of these amendments shall be transferred to the Trust Fund. Additional sums are authorized to be appropriated to the Trust Fund as may be required to make expenditures for nursing facility care.

Payments each year from the Trust Fund for home and community care are authorized and appropriated from the amounts determined under the provisions of this Act eliminating the limit on wages or self-employment income subject to the hospital insurance tax.

Payments each year from the Trust Fund for nursing facility care are authorized and appropriated from the amounts determined under the provisions of this Act increasing FICA taxes on employers and employees by .5%.

Amounts in the Trust Fund shall be available to carry out the functions of the Long-Term Care Advisory Council.

Home care agency defined

A home care agency is a public agency or private organization (or a subdivision) that is a home health agency as defined under Medicare or is primarily engaged in providing services of homemaker/home health aides and personal care aides; maintains clinical records on all patients; meets any applicable state or local licensing requirements; meets conditions of participation for an approved home health agency under Medicare and other conditions the Secretary may find necessary.

Conforming Amendments

Title XVIII of the Social Security Act is amended in appropriate places to include references to nursing facilities and home care agencies. Reference to a home health agency or home health aide is deemed a reference to a home care agency, a homemaker/home health aide or personal care aide. Provisions of the Federal Hospital Insurance Trust Fund are amended to include provisions for the Long-term Care Trust Fund.

Effective Date

Provisions authorizing the appropriation of funds to the Long-Term Care Trust Fund become effective January 1, 1993, but no payments shall be made for services under this part before January 1, 1994.

Miscellaneous Amendments

Various provisions of the Social Security Act are amended to include appropriate references to long-term care benefits under part C.

Entitlement to Benefits of Dependent Children

Persons intitled to benefits for long-term home and community care include every individual who is under 19 years of age; is a citizen of the U.S. or an alien lawfully admitted for permanent residence who has resided in the U.S. continuously during the 5 years immediately preceding the month involved; has been certified by a trained case management team of a long-term care management agency, in consultation with an attending physician, to be chronically dependent or disabled. The individual must be certified to be unable to perform (without human assistance or supervision) at least 2 age-appropriate activities of daily living or to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability; has applied for these benefits and is not otherwise eligible for benefits under part A of Medicare.

Entitlement to Benefits of Railroad Retirement Beneficiaries

The Railroad Retirement Act of 1974 is amended to include home and community care and nursing facility care.

Determinations and Appeals

The hearing and judicial review procedures for appeals of Medicare part A benefits are made available to persons appealing a negative certification or any other determination with respect to a claim for benefits under this part.

TITLE II—ASSURING SELF-FINANCING OF LONG-TERM CARE BENEFITS AND QUALITY ASSURANCE

Assuring self-financing of benefits

The additional costs to the Federal Government for home and community care re-

sulting from this Act are not to exceed the revenues derived from amendments made by this Act.

Not later than 3 months before the effective date for home and community care benefits, the Secretary, in consultation with the Long-Term Care Advisory Council, shall estimate the amounts transferable to the Trust Fund and the amounts expected to be expended during the succeeding year for home and community care. If the Secretary estimates that a deficit exists, the amount payable for home and community care shall be reduced by a copayment amount (no more than 5% of the national average daily payment rate for home and community care) necessary to reduce the amount of the deficit by one-half. The Secretary shall also reduce the maximum monthly payment limits for home and community care by a percentage estimated to be necessary to reduce the deficit by one-half.

Sec. 202. Assuring quality of long-term home care

Long-Term Home and Community Care Quality Assurance

SEC. 1855. Long-Term Home and Community Care Consumers' Bill of Rights.—The Secretary shall promulgate by regulation a long-term home and community care consumers' bill of rights that may be asserted by the consumer or the consumer's representative. These include the right to be treated with courtesy, respect and full recognition of one's dignity, individuality and right to control one's own household and lifestyle.

The individual has a right to be fully informed of services to be provided and any limit on services; of whether services may be covered by other sources and whether uncompensated care may be available; of charges for services and any changes in services or charges; of procedures to follow if rights are violated or services are not satisfactory.

The individual has a right to take an active part in creating or changing the plan of care and selecting and evaluating the home care provider, the treatment, care and services.

The individual has a right to be served by persons who are properly trained and competent to perform their duties.

The individual has a right to be fully informed of the assessment of his or her condition, unless documentation of a professional practitioner contradicts this right.

The individual has the right to refuse all or part of any service and to be informed of the likely consequence of the refusal.

The individual has the right to receive treatment, care and services without discrimination in the provision or quality of service based on race, religion, gender, age, disability or creed or because of a change in the source of payment.

The individual has the right to be free from mental and physical abuse, neglect and exploitation and to be free from chemical and physical restraints.

The individual has the right to receive respect for property rights; privacy in caring for personal needs, communications and all daily activities; and confidential treatment of personal, financial and medical records.

The individual has the right to voice grievances and recommend changes in policies to staff or outside representatives of the consumer's choice and to be assisted when needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, the home health agency, or the home care provider.

The individual has the right to be free to fully exercise his or her civil rights and to be assisted in doing so.

The individual has the right to receive prompt notice if services are to be reduced or terminated, assistance to assure smooth transition in services, and prompt notice of acceptance or denial of services and reasons for denial.

HOME HEALTH AGENCY QUALITY ASSURANCE REQUIREMENTS

The Secretary shall promulgate regulations making payment for the provision of long-term home and community care services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall ensure that each long-term care provider receives training sufficient to meet a level of proficiency established by the Secretary in consultation with representatives of the elderly, children and individuals with disabilities, and with appropriate health and social service professionals. Training must develop separate levels of proficiency and reflect the range of skills needed to provide different levels of longterm home and community care. The extent of training and level of certification of each provider shall be available on request to the long-term home and community care consumer.

The agency shall supervise all of its providers under regulations promulgated by the Secretary (including regular random, onsite visits by registered nurses or other appropriate health care professionals) and perform annual evaluations of quality of services. Evaluations must include and document consumer involvement.

To receive funding for provisions of durable medical equipment services a home health agency or long-term home and community care provider shall provide for each consumer receiving the services written instructions for the operation of the equipment; sufficient training to the consumer, the family and staff to allow correct, safe operation of the equipment; and an emergency plan appropriate for the services to the consumer.

Long-Term Care Management Agency Quality Assurance Requirements

The Secretary shall promulgate regulations making payment for the provision of case management services contingent upon compliance, within 6 months of promulgation, with the home and community care consumer's bill of rights and with the following:

The agency shall provide a written copy of the bill of rights to each consumer or his or her representative.

The agency shall provide a written copy of and implement procedures for prompt review and resolution of grievances in the provision of services.

The agency shall provide a written statement of the services to be provided, the schedule for provision of services and how the consumer or his or her representative or guardian may appeal the benefit decisions made by the agency.

The agency shall maintain procedures that assure prompt access to long-term home and community care services for eligible consumers.

The agency shall ensure that personnel providing case management services have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council.

The agency shall establish and implement case management processes that include a plan of care stating reasonable and measurable client objectives, services to meet the objectives, and outcome measures to the extent appropriate and available for each consumer served. The processes must include methods for periodic review of the consumer's needs and plan of care, methods for follow-up and on-going monitoring of service delivery, and a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

Survey Requirements

The Secretary, in consultation with the Long-Term Care Advisory Council, shall promulgate regulations establishing procedures for surveying long-term care management agencies regarding compliance with conditions of participation. The regulations shall include survey methodologies that include patient-oriented assessment techniques; process and outcome criteria for measuring compliance; and randomized onsite review of a representative sample of consumers.

The regulations shall include a graduated schedule of unannounced surveys not less than every 9 months for long-term care management agencies determined to have a substandard record of compliance; not less than every 15 months for agencies determined to have consistently satisfactory records of compliance; and not less than every 12 months for other such agencies.

The results of surveys shall be provided to the Long-Term Care Advisory Council, community advisory boards and others.

In the case of a state that has survey and enforcement procedures equivalent to the procedures the Secretary would apply, the Secretary may enter into a contract for the states to conduct the compliance survey required by this section. The Secretary shall develop and implement procedures for annually validating a representative sample of surveys performed by states. Such validation review shall take place within 1 month after the performance of a survey.

Quality Assurance System Through Peer Review Organizations

The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home and community care. In awarding, administering, and evaluating contracts entered into with peer review organizations, the Secretary shall take into consideration information contained in reports issued by Consumer Boards; require that at least ¾ of the level of effort of the peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home and community care; require that the remainder of the efforts shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the consumer, of the appropriateness and necessity of care denied under this title.

The Secretary shall also require that any review include a representative sample of documentary reviews and personal interviews of home and community care consumers and providers; require that any responsibilities carried out by a third party under contract with the peer review organization

are fully integrated with other functions of the organization; and require that the membership of the peer review organization board include representatives of all types of home and community care providers reviewed by the organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

A peer review organization performing functions under this subsection may not be a home health agency; a home and community care management agency; a home and community care provider; or a fiscal intermediary.

The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities, and the organization may recommend to the Secretary sanctions to be applied to home health agencies and to home and community care management agencies that have not met professionally recognized standards of care.

The Secretary shall establish a Consumer Board in each state within 1 year after the date of enactment of this section. The Board shall be composed of at least 5 and not more than 7 members appointed by the Secretary on the basis of recommendations from organizations in each state representing home and community care consumers entitled to benefits under this title. The Secretary shall provide limited staff support and training as is necessary for the Board to carry out its functions.

A Consumer Board shall monitor the review activities of peer review organizations by providing input into the awarding of contracts and by evaluating the contracts and mechanisms established to monitor home health agencies and home and community care management agencies. A Board shall have access to information of peer review organizations, results of state surveys, and information from toll-free hotlines after protection of identities of individual providers and consumers. A Board shall file an annual report with the Secretary and the chief executive officer of the state on October 1 of each year regarding the performance of peer review organizations during the previous year. A Board shall not be involved in the day-to-day operations of peer review organizations.

Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home and community care consumers, home and community care providers, and other interested persons concerning home and community care quality issues.

The Secretary shall require peer review organizations to assist home and community care consumers in the resolution of problems related to the quality of home and community care services and case management services.

Consumer Boards and peer review organizations shall coordinate with state and local community officials to educate home and community care consumers regarding quality assurance programs and various forms of assistance available to consumers having quality assurance problems.

Community Advisory Boards and Additional Quality Assurance

Each state shall appoint members to a community advisory board for each long-term management agency. Each board shall be composed of long-term home and community care consumers and their families, representatives of agencies and organizations representing long-term care consumers and professionals providing services to chronically ill individuals. Long-term home and community care consumers, their families, or their representatives shall form a majority of the members of each board. The Secretary shall provide limited staff support to each board as is necessary to carry out its functions.

Each board shall monitor the activities of the long-term care management agency; provide input into the selection of long-term care management agencies; file a report with the Secretary on the findings of its monitoring not less frequently than annually; and have prompt access to surveys and investigations of complaints.

The Secretary shall develop methods for monitoring the continuity of care provided to home and community care consumers throughout episodes of illness and across care settings, and shall develop outcome-oriented criteria for use in determining quality assurance in home and community care.

Sanctions

The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions for failure to comply with this section. Sanctions and procedures shall include: civil monetary penalties, a ban on admissions, receivership, and emergency authority to decertify home health agencies and long-term care management agencies; criteria on when and how each sanction is to be applied and the amounts of fines and penalties; a design to minimize time between identification of violations and imposition of sanctions; a schedule for corrective action; a requirement for public disclosure of failure to meet professionally recognized standards of care and the sanctions imposed for such failure.

The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

Development of Licensing Policies

The Secretary shall encourage states to develop policies and procedures for the licensing of home health agencies; gather information relating to activities of states in implementing licensing policies and procedures; and issue a biannual report summarizing this information.

Long-Term Care Advisory Council

The Council shall be established no later than 60 days after the date of enactment of this section. The Council shall be composed of 13 individuals appointed by the Secretary and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care consumers and their representatives, professionals with expertise in long-term care (including nurses, social workers and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and state and local health and social service agency representatives. Appointment to the Council shall be for a term not to exceed 4 years.

The purposes of the Council are to assist the Secretary in assuring the prompt and efficient implementation of the provisions of this part; to review regularly the implementation of these provisions; and to recommend to the Secretary and the Congress any needed changes or refinements to these provisions or their implementing regulations.

The Secretary shall consult regularly and closely with the Council in the implementation and administration of the provisions of this part and on the issuance of regulations. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this part, and at least quarterly thereafter.

Studies

The Secretary shall conduct studies on quality assurance measures for long-term home and community care services provided under this part. The studies shall include examination of methodologies to develop and evaluate outcome standards; mechanisms for ensuring and monitoring quality by episode of care; the role of case management for ensuring quality in the provision of services; differing approaches to and responsibility for development of a plan of services; and the impact on quality of care of the separate reimbursement for supply of durable medical equipment and the training of consumers and their families in the operation of such equipment.

The Secretary shall report the findings of these studies to the Congress no later than 2 years after the date of enactment of this part.

Reports on Quality Assurance System

The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year on the nature and performance of the home and community long-term care quality assurance system.

Each report shall include information on: the number of individuals served; the amount of Federal funds expended; noncompliance by providers and sanctions imposed; the economic impact on home health agencies of requirements of this section; the impact of requirements of this section on availability of services in rural areas and to members of minority and ethnic groups; the concerns and recommendations of community advisory boards and Consumer Boards; and the status of studies on quality assurance measures.

Authorizations

There are authorized to be appropriated from the Federal Long-Term Care Trust Fund such sums as may be necessary in each fiscal year to carry out the provisions of this section.

Effective Date

The amendments made by this section shall become effective upon the date of enactment of this Act.

TITLE III—FINANCING OF LONG-TERM CARE

Sec. 301. Source of revenue for home and community care

Elimination of Limit on Wages or Self-Employment Income Subject to Hospital Insurance Tax

Section 230 of the Social Security Act is amended to provide that notwithstanding any provision of the Social Security Act or the Internal Revenue Code of 1986, there is no limit on the amount of an individual's net earnings from self-employment or remuneration for employment that is subject to the hospital insurance tax. Conforming amendments are made to the Internal Revenue Code of 1986.

Effective Date

The amendments made by this section shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment at-

tributable to taxable years beginning after such date.

Sec. 302. Source of revenue for nursing facility care

Increase in FICA Taxes

Tax on Employees

The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to provide that the rate of tax on wages shall be 6.2 percent in 1992 and 6.7 percent in 1993 or thereafter.

By Mr. BOND (for himself and Mr. MCCONNELL):

S. 2018. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands; to the Committee on Environment and Public Works.

(The statements of Senators on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. PRESSLER:

S. 2019. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

PROHIBITING MILITARY AND ECONOMIC AID TO TURKEY

Mr. PRESSLER. Mr. President, Turkey invaded Cyprus in 1974. Occupying forces of Turkey still control a large area of northern Cyprus, where they support the illegal Denktash regime. More than 1,600 Greek Cypriots and five American citizens who were captured by the Turks in 1974 still are missing and unaccounted for.

It is unfortunate, Mr. President, that the Government of the United States has been implicated, at least indirectly, in the continuing illegal Turkish occupation of Cyprus. The United States is the major supplier of Turkish military equipment. That equipment was illegally used in the 1974 invasion and continues to be used today to enforce Turkish control of northern Cyprus.

The United Nations has managed to initiate a series of discussions between Rauf Denktash, leader of the self-proclaimed breakaway territory, and the President of Cyprus, George Vassiliou. These talks have not resulted in progress toward a peaceful reconciliation. The political and military stalemate still exists.

Mr. President, it is time to put aside patience and forbearance in this matter. Within the last year, American and coalition forces liberated Kuwait, a country also occupied by hostile forces. Soviet troops have left Afghanistan for all intents and purposes. An Angolan peace treaty has provided for the departure of Cuban troops from that country. Vietnamese troops are leaving Cambodia. Yet, illegal Turkish troops and colonists remain in Cyprus. Seventeen years of Turkish occupation of over one-third of Cyprus must be brought to an end, and the United States and the world community have an obligation to contribute to a resolution of this problem.

Therefore, today I am introducing a bill to prohibit any military or economic assistance to Turkey until certain conditions are met.

Mr. President, I recognize that this is tough legislation. It is deliberately meant to be tough. We have tried other legislative formulas in the past. They have not worked. The U.N.-sponsored discussions have resulted in no concrete progress. Those talks are likely to continue to drag on, punctuated now and then by propagandistic displays of movement synchronized with the foreign assistance legislative calendar here in Congress. It is time for us to stop being led around on this issue by a recalcitrant ally. It is time for us to display courage in defending the principles of democracy as applied to Cyprus.

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

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

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no military or economic assistance may be provided under the Foreign Assistance Act of 1961, as amended, or any other law, for Turkey, and that no credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey, until the President certifies to the Congress that—

(1) all Turkish military forces, in excess of those permitted by the 1960 Treaty of Guarantee, and all Turkish colonists are withdrawn from Cyprus;

(2) the Government of Turkey has returned to the Government of Cyprus under the auspices of the United Nations the formerly Greek Cypriot-occupied area of Famagusta/Varosha for the immediate resettlement of refugees;

(3) the negotiations under United Nations auspices have achieved significant progress towards establishing a constitutional democracy in Cyprus based on majority rule, the rule of law, and the protection of minority rights;

(4) the Government of Turkey has released and returned the five Americans abducted by the Turkish invasion forces in 1974 and 1,614 Greek Cypriots who have been missing since the Turkish invasion;

(5) the Government of Turkey is in compliance with the United Nations Charter, Article 2(4), United Nations resolutions on Cyprus including General Assembly Resolution 3212 of November 1, 1974, endorsed by Security Council Resolution 365 on December 13, 1974, Security Council Resolutions 353, 354, 357, 358 and 360 of 1974, and other relevant resolutions on Cyprus;

(6) the Government of Turkey is in compliance with the North Atlantic Treaty Preamble and Article 1; and

(7) the Government of Turkey is in compliance with the United States Foreign Assistance Act of 1961, as amended.

By Mr. WELLSTONE:

S. 2020. A bill to provide for the transition to a sustainable energy future by moving systematically toward much more efficient energy use and greater renewable energy production through a program of State energy transition grants designed to foster vigorously competitive markets of sustainable energy ideas and innovations at the State and local levels, and for other purposes; to the Committee on Finance.

SUSTAINABLE ENERGY TRANSITION ACT OF 1991

• Mr. WELLSTONE. Mr. President, we had an important vote on this floor 3 weeks ago on a cloture motion to end debate on the motion to proceed on S. 1220, the Johnston-Wallop energy bill. I consider that a historic vote for a new direction in national energy policy. I now want to contribute in an important and constructive way to that new direction by introducing the Sustainable Energy Transition Act of 1991 (S. 2020).

We need a national energy policy which will begin an orderly transition to a sustainable energy future built around renewable energy supplies and efficient energy use. National energy policy should also recognize and support the crucial role regional, State, and local efforts will play in such a transition process.

For the past few months, I have been working with many individuals from Minnesota, other States, and national organizations to develop legislation which will achieve these goals. I hope my colleagues will give serious attention to the bill I am introducing today.

The polls show that the American people are deeply concerned about threats to the environment resulting from climate change, national security vulnerabilities due to heavy dependence on imported oil, and declining economic prosperity and competitiveness in the new global economy. People are looking to us for leadership, and know each of these problems is tied to our wasteful energy habits. They are urging us to begin a transition to sustainable energy technologies by maximizing energy efficiency and rapidly expanding renewable energy production.

Each State and region has different opportunities and challenges for energy efficiency and renewable technologies, given the diversity of climates and indigenous resources. This diversity argues for implementing a transition to sustainable energy use at the State or regional level. That is the direction taken by the Sustainable Energy Transition Act. It provides the means to catalyze and support the diverse and creative energy programs across each of the 50 States toward achieving national energy goals.

The expertise, the experience, the motivation, and the regulatory authority to design and direct such programs are all found at the State level. Local

entrepreneurs, businesses, and communities stand ready to take advantage of new technological opportunities for energy saving and development of local energy resources if given support.

This is a particularly important moment for this proposal. Billions of dollars in oil overcharge funding have supported an impressive range of State and local energy efforts. But, the funding that has been the lifeblood of most State energy offices will soon run out. Many successful State programs to conserve energy will be lost if these offices are forced to close. This bill will not only ensure their continued funding, but expand and build upon their success.

This legislation would also generate significant new employment opportunities in all States at a time when jobs are most needed. Studies indicate that energy conservation and renewable energy production are considerably more labor-intensive than conventional energy production, yet save substantial money and resources in the long run. Why not put people to work installing efficient lighting in homes across the Nation or building wind machines and ethanol plants in America with American labor?

This legislation would establish a multi-billion-dollar sustainable energy transition trust fund to support energy transition efforts. Those efforts would be based upon sustainable energy transition strategies which would be developed by the States, or regional consortia of States, with Federal support and guidance. The overall objective would be to launch serious and innovative programs in each of the 50 States aimed at achieving a 20-year national goal of reducing energy use by at least 10 percent and tripling renewable energy production.

Achieving an energy transition will be no small task—it will take the level of commitment by which we achieved leadership in space exploration and constructed an Interstate Highway System. This legislation proposes to fund these efforts from two appropriate sources—eliminating tax subsidies and imposing a fee on the major cause of climate change. First, it closes two large energy tax loopholes—the passive loss exemption and percentage depletion allowance. Second, it establishes a small carbon-based tax on fossil fuels. When fully phased in over 3 years, the carbon-based tax would amount to roughly one-half penny per gallon of oil produced or imported.

For that small cost, there will be many benefits in addition to saving consumers money and creating jobs. Investing in energy efficiency and renewable supplies will protect the environment and increase energy security. Serious investments in these technologies will improve our Nation's economic competitiveness and establish the United States as a leader in sustainable energy technologies. And by planning a long-term transition, economic dislocation and hardships to workers and communities dependent on fossil fuels can be anticipated and addressed.

I hope that this legislation will be an important part of any future national energy policy debate. A detailed summary of the bill is appended. I am introducing this legislation now and circulating it widely among my colleagues and others. It is my intention to reintroduce a revised bill in early January with original cosponsors.

Finally, I want to thank everyone on my staff, from other Senate offices, from my advisory group in Minnesota, and from energy, environmental, taxpayer, and consumer organizations who worked so hard to formulate what I believe is a fundamentally new approach to national energy policy. I look forward to working with many more colleagues and groups as we refine this legislation and prepare to move forward next session.

Mr. President, I ask unanimous consent that a summary of S. 2020 be included in the RECORD immediately following these remarks.

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

SUMMARY OF PROVISIONS ON THE SUSTAINABLE ENERGY TRANSITION ACT OF 1991—S. 2020

FINDINGS, PURPOSES AND GOALS

Findings: This legislation recognizes the importance of moving to sustainable energy use through maximizing energy efficiency and renewable energy production. It finds that the technology is now, or will soon be, available for such a transition. It states that by moving to efficiency and renewables, there will be a net increase in employment. It declares that fostering regional, state and local efforts will be the best course to take in order to implement such an energy transition.

The findings assert that communities dependent on fossil fuels should not bear the burden of this transition, and providing economic development and employment for those communities is an important part of a transition effort. It indicates that both energy exporting states and energy importing states stand to gain economically from a program of systematic investments in energy efficiency and renewables.

The bill states that a carbon tax is the appropriate source for funding programs to mitigate carbon-induced climate change, and that eliminating subsidies of non-renewable fuels is a necessary part of a transition to sustainable energy use. Finally, the findings declare that states and regions should be allowed to implement energy efficiency standards higher than federal standards in appropriate circumstances.

Purposes: The legislation has seven purposes:

(1) to ensure a sustainable energy future through increasing energy efficiency and the use of renewable energy sources;

(2) to enhance national security by reducing oil imports;

(3) to reduce US contribution to climate change by reducing fossil fuel use;

(4) to provide for economic growth and expanded employment;

(5) to assist individuals and communities affected by a transition away from fossil fuels;

(6) to establish the US as an international leader in sustainable energy technologies; and,

(7) to enhance US economic competitiveness generally.

Goals: The legislation establishes as its minimum goals the achievement by the year 2011 of—

(1) a reduction in national energy use by 10 percent from current levels, and

(2) an increase in renewable energy sources to supply 25 percent of domestic energy needs.

TITLE I—SUSTAINABLE ENERGY TRANSITION STRATEGIES

This Title defines the criteria for "Sustainable Energy Strategies," with which states (or regional consortia of states) need to comply within two years of enactment to be eligible for funding.

Sustainable Energy Strategies will delineate each state's or region's plans to achieve long-term (20 year) energy efficiency goals which meet or exceed the goals of the Act. The Strategies will include comprehensive long-term assessments and detailed short-term transition programs.

The legislation requires that the long-term assessment evaluate:

(1) the energy use of the state or region,

(2) the technical potential for efficiency improvements and renewable production,

(3) alternative plans for achieving those potentials,

(4) the market place barriers to increasing efficiency and deploying renewables, and,

(5) the social, economic and employment impacts of the alternatives, including impacts on equity and competitiveness.

Each state or region will also be required to produce a short-term assessment. This includes an Energy Transition Program which details the state or region's proposed actions during the next 5 years to achieve the efficiency and renewable energy production goals it has established in its Strategy. The Transition Program includes consideration of a broad range of public policies, from direct investment in technologies to public education programs. It must also address employment transition programs for individuals and communities affected by the transition to new energy sources.

The legislation specifies that the short-term strategy would also include a detailed budget for the plan, and a specific proposal for evaluation of the state's or regional consortium's progress towards achieving its goals, including evaluation of the success or failure of specific programs undertaken.

In developing both the long-term and short-term aspects of the strategy, the legislation directs states to consider the life cycle and external costs of technological options.

Strategies, once developed by a state or regional consortium, are reviewed by the Secretary of Energy at least three months prior to final submission to the Department of Energy (DOE). After final submission, the Secretary is directed to determine whether or not the Strategy meets the requirements of this Act. If it does, the State qualifies for funding through the Sustainable Energy Transition Trust Fund.

Strategies are required to be updated every three years. Updates will also include consideration and development of a short-term program for using "incentive funding" which the state may apply for from the Trust Fund.

The legislation allows states to enter into consortium agreements for carrying out the

purposes of this Act. The Secretary is authorized to provide funding to facilitate consortium formation and support their operating expenses. The bill specifies that the formation of a regional consortium shall not decrease the funds available to any state.

TITLE II: SUSTAINABLE ENERGY TRANSITION TRUST FUND

A Sustainable Energy Transition Trust Fund is created in the Treasury. Expenditures from this fund are authorized to be available, as provided in appropriation Acts, for carrying out the provisions of this Act. Any unexpended balances remaining in the Fund are required to be invested by the Treasury in interest bearing accounts.

The Secretary of the Treasury is directed to appropriate to the Trust Fund amounts determined to be equivalent to the revenues received on an annual and continuing basis as a result of three provisions of this Act. They are:

(1) repeal of the passive loss exemption to the alternative minimum tax (estimated revenue gain: $300 million/year);

(2) phase-out of depletion allowance for oil, gas and coal (estimated revenue gain: $1.2 billion/year); and (3) an excise tax on the production or importation of coal, oil and natural gas (estimated revenue gain: $4.2 billion/year).

The excise tax imposed on coal, oil, and natural gas is based upon their relative carbon content, to reflect their contribution to eliminate change. The tax is phased in over three years. At its peak, it is equivalent (based on carbon content) to roughly a one-half cent per gallon tax on oil production.0

The funds generated by these three provisions are allocated into three separate subdivisions of the Transition Trust Fund—a designated fund, an incentive fund and a support fund.

Fifty percent of the total funds generated are allocated to the designated fund. Up to twenty percent of the designated fund is immediately available to be distributed to the states for developing Sustainable Energy Strategies. After approval of its Strategy, each state receives its share of the designated fund based upon the following formula: forty percent shall be divided equally among all States and sixty percent shall be divided in proportion to their population.

Forty-five percent of the total funds generated are allocated to the incentive fund. Incentive funding will be awarded to the states beginning five years after enactment of this act based upon their performance in achieving the energy efficiency and renewable energy production goals of this Act and their individual Strategies.

The Secretary of Energy, in consultation with the Transition Fund Advisory Board, is directed to make the incentive funding allocations based upon a review of each State's efforts and the evaluation and incentive funding application provided by each state. Incentive funding allocations will be made for a three-year period. The additional funds would support activities and programs consistent with the state or regional Strategy.

Five percent of the total funds generated are allocated to the support fund. These funds shall be used to support the Energy Transition Information Clearinghouse, state and regional research and training efforts, and the formation and operation of regional consortia.

A Transition Fund Advisory Board is created to advise the Secretary in carrying out the provisions of this Act, particularly the distribution of incentive funds. The bill specifies that the Advisory Board shall have eleven members, appointed on a non-partisan basis, representing a range of interests, technical expertise, and relevant government agencies.

Several specific requirements must be met by states receiving funds: (1) states must provide 20 percent of the financial support for the programs funded by the designated fund from sources within the state; (2) states must establish a statewide citizens energy council for advice regarding the conduct of the program; (3) local governments must be allocated at least 20 percent of the funds provided annually and must establish community energy councils to provide advice about local programs; and (4) a minimum of 2 percent of all funds must be spent on evaluating the strategies, programs, policies and other activities carried out under the Act.

Several restrictions are placed on expenditure of funds under the Act: (1) funds may be spent only for the implementation of energy efficiency and renewable energy projects and other programs consistent with the State or regional consortium's energy transition strategy, (2) the state must support a mix of both efficiency and renewable initiatives, with no less than 30% of the funds spent on either efficiency or renewables, and (3) not more than 10% of the funds provided may be used for administrative purposes.

TITLE III: ENERGY TRANSITION INFORMATION CLEARINGHOUSE

An Energy Transition Information Clearinghouse is established within the Energy Information Administration of DOE. The clearinghouse is directed to collect and disseminate information on:

(1) energy efficiency and renewable programs among the states;

(2) evaluations of both successful and unsuccessful policies and programs;

(3) sustainable energy strategies;

(4) the role of local governments and community groups in advancing strategies

(5) information on joint ventures and the use of private funding mechanisms

(6) such other informatin as necessary.

In addition the Clearinghouse is charged with promoting technology transfer and cooperating with State and local governments in carrying out this Act.

TITLE IV: RESEARCH AND TRAINING

This Title provides general direction for the Secretary of Energy to re-orient federal research efforts to support the goals and purposes of this Act.

First, it directs the Secretary to support State energy research and development efforts. It also directs the Secretary to promote the establishment or regional councils of State research and development officers and representatives of institutions of higher learning. Finally, the bill mandates that existing DOE research activities be reviewed and revised to designate appropriate regional research centers to support State activities under this Act.

Second, the bill directs the Secretary to support community colleges and vocational-technical institutions to create and expand training programs for energy efficiency and renewable energy technologies.

TITLE V: STATE AND REGIONAL STANDARDS

The legislation repeals the language of existing law which has been interpreted as possibly prohibiting states from adopting incentive programs for the purchase of more efficient automobiles.

Further, the legislation authorizes states or regional consortiums with a total population of more than 10,000,000 to adopt standards which are stricter than federal standards for automobiles and light trucks, heating and air conditioning equipment and other appliances, showerheads, or any other product which the state or regional consortium finds uses a significant quantity of energy.

Any state or regional standards adopted, however, must (1) be at least as energy efficient or renewable-energy intensive as the federal standards, and (2) must be adopted as part of the implementation of the state or regional consortium's sustainable energy strategy.

Further, the legislation details procedures for any person adversely affected by state or regional standards to petition for the Secretary of Energy to disallow standards which fail to save energy and which impede interstate commerce. While authorizing disallowance if the Secretary concurs, the legislation requires consideration of adopting a federal standard in cases where the Secretary finds that state or regional standard does save energy but impedes interstate commerce.

TITLE VI: AUTHORIZATION OF APPROPRIATIONS

This Title authorizes the appropriations of such sums as necessary to carry out out this Act.

Estimated amounts available to States in 1995 from the dedicated fund of the Sustainable Energy Transition Trust Fund

State	Millions
Alabama	$52.34
Alaska	26.94
Arizona	47.94
Arkansas	40.24
California	224.04
Colorado	46.64
Connecticut	46.14
Delaware	27.94
Florida	110.74
Georgia	68.24
Hawaii	31.04
Idaho	30.34
Illinois	105.64
Indiana	62.64
Iowa	43.34
Kansas	40.94
Kentucky	49.64
Louisiana	54.54
Maine	31.74
Maryland	56.04
Massachusetts	65.04
Michigan	88.74
Minnesota	53.74
Mississippi	41.84
Missouri	59.74
Montana	28.94
Nebraska	34.64
Nevada	30.74
New Hampshire	30.94
New Jersey	77.94
New Mexico	33.94
New York	150.24
North Carolina	69.24
North Dakota	27.94
Ohio	100.24
Oklahoma	46.24
Oregon	42.84
Pennsylvania	108.34
Rhode Island	30.24
South Carolina	47.84
South Dakota	28.34
Tennessee	57.94
Texas	142.64
Utah	35.24
Vermont	27.14
Virginia	65.94
Washington	56.24
West Virginia	36.54
Wisconsin	57.64
Wyoming	26.64•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2021. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

RIO GRANDE DESIGNATION ACT OF 1991

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the Wild and Scenic Rivers Act by designating an additional 12-mile segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System. I am pleased that my colleague, Senator DOMENICI, has joined with me in cosponsoring this bill.

You may recall that the Rio Grande in northern New Mexico was among the first rivers protected under the Wild and Scenic Rivers Act. We in New Mexico have a great regard for our free-flowing streams and we were eager for the designation. Water in our State is scarce, and the beauty of a flowing river is increased for us because of this scarcity.

This bill again shows the appreciation we have for our river resources. It will confer the designation "recreational river," as provided for in the Wild and Scenic Rivers Act, for an additional 12 miles downstream from the southern terminus of the Rio Grandes' existing designation. This will cover from the Taos Junction Bridge down to the village of Rinconada.

A majority of the lands in the proposed extension are public lands under the administration of the Bureau of Land Management. Private lands are centered around the village of Pilar for about 2 river miles, and at three locations downstream, totaling about 1¼ additional miles.

Mr. President, let me tell you about this 12-mile segment of river. Just south of the Taos Junction Bridge the river enters the Orilla Verde Recreation Area, a stretch with several developed recreation sites and with some prime riparian areas which provide homes to a variety of birds and animals. State Highway 570 follows the river in this section. South of the recreation area, beginning just below Pilar, the river carves its way through deep, spectacular canyons. There are stretches of rapids in this part of the river. And, above the canyon, State Highway 64 runs, providing pullouts to watch both the activities on the river and the river taking its course below. River rafters, boaters, people fishing, photographers, hikers and rockclimbers, campers—all use and enjoy the free-flowing Rio Grande along this 12-mile segment.

This bill will provide protection for this portion of the river from any new federally built, permitted, or licensed dams or other water resource projects which would have a direct and adverse effect on the free-flowing values of the Rio Grande.

But, "recreational river" is also the most expansive designation within the Wild and Scenic Rivers Act for continuing multiple resource management of the area—that's good for this segment. And this is why, under the designation "recreational river" the following may occur: optimum access by motorized vehicles on existing roads will be continued; public use areas may be in close proximity to the river; new structures will be allowed for both recreational use and habitation—but extensive recreational development is not required; recreation uses will be encouraged to the extent consistent with protection of the river environment; new rights of way will be discouraged, but if unavoidable, will be located and designed in ways to minimize effects on the river's values; lands will be managed for a full range of agricultural and livestock grazing uses, consistent with current practices; timber harvesting would be allowed under standard restrictions to avoid adverse effects on the river environment; water quality will be maintained or improved; existing dams and diversions may be maintained in such a way as to assure that the character of the waterway will remain generally natural; new mining claims are allowed and existing operations are allowed to continue; existing parallel roads can be maintained on either or both banks of the river; and finally, several bridge crossings and numerous river access points are permitted.

It is with this knowledge that the landowners along the river—Federal and private—support this designation. As recently as last week at a town meeting held near the proposed extension, the bill was greeted with clear and enthusiastic support. The bill will protect the values of the river that New Mexicans hold dear. And, finally, both the people who use the river, and those who live along it, will be assured of a beautiful, free-flowing stream for themselves and their children.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 2021

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 "Rio Grande Designation Act of 1991".

SEC. 2. DESIGNATION OF RECREATIONAL RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the Rio Grande, New Mexico, wild and scenic river, designated pursuant to paragraph (4), located at the intersection of State Highway 567 and State Highway 570 at the site of the Taos Junction Bridge, downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from entry, sale, or other disposition under the public land laws, from all forms of appropriation under the mining laws, and from operation of the mineral leasing laws.

(b) LANDS.—

(1) DESCRIPTION AND MAP.—The lands referred to in subsection (a)—

(A) comprise approximately 1,349.36 acres;

(B) were conveyed from the State of New Mexico to the Bureau of Land Management on or about July 23, 1980, April 20, 1990, and July 17, 1990;

(C) are known as the Orilla Verde Recreation Area; and

(D) are generally depicted on the map entitled "Recreation Addition to Rio Grande Wild and Scenic River", numbered and dated .

(2) PUBLIC ACCESS TO MAP.—The map shall be on file and available for public inspection in —

(A) the Office of the Director of the Bureau of Land Management; and

(B) appropriate offices of the Bureau of Land Management in the State of New Mexico.

By Mr. BOREN:

S. 2022. A bill to establish the United States-Soviet Democracy Center, to authorize the Peace Corps to operate in the Soviet Union, and to establish a fellowship program for young Soviet leaders; to the Committee on Foreign Relations.

INITIATIVE FOR SOVIET DEMOCRACY ACT OF 1991

• Mr. BOREN. Mr. President, 2 days ago, I joined with my distinguished colleague from Indiana to call for a bipartisan, cooperative approach to deal with the crisis in the former Soviet Union. We said then, and continue to believe today, that the prospect of social chaos and of a return to anti-American leaders in Moscow is too great, at this pivotal moment in history, to be left to the petty maneuvers of party politics.

And so yesterday, a group of Senators from both sides of the aisle met to discuss legislation which would help the Soviets dismantle their most ominous weapons of mass destruction. I am pleased to see that Senator LUGAR and the chairman of the Senate Armed Services Committee, Senator NUNN, have unveiled the product of our bipartisan labor. I am proud to be a cosponsor of this measure and hope the Senate will look favorably upon it.

It is notable that today, the Senate will have considered not only this much-needed and sensible legislation, but also the treaty to slash conventional forces in Europe. Both serve the same strategic purpose: To reduce the ability of the Soviet military to inflict harm on America or our allies, whatever the future of the crumbling Soviet Union.

But Mr. President, where the Soviet Union is concerned, we must have a two-track strategy for safeguarding our security—and dismantling their weapons is only one of them. We must also move—with the same urgency, the same recognition that our actions will resonate generations from now—to bolster democracy in the Soviet republics.

No one should believe that the forces of repression, of hatred and iron rule, disappeared when the August coup failed. Those forces merely went underground, and their leaders are waiting patiently for democracy to sputter and die. For every reformer, there is a Vladimir Zhirinovski, the extremist, the neofascist, the conspiracy theorist. And for every Zhirinovski, there are 10 Russians who are hungry and angry and ashamed, who might become willing to give up on this curious idea of freedom. What a blow it would be Mr. President, not just to the Soviet people but to the American taxpayers who have spent untold sums to win the cold war, if the United States stood by, nervous and afraid, at this decisive moment in postwar history, only to see a dangerous and costly arms race reignited.

That is why I am introducing today the Initiative for Soviet Democracy Act of 1991. This bill, if enacted, would represent the first coherent effort by the United States Government to bolster the fledgling democratic institutions of the former Soviet Union. Its cost is modest, but its benefits will be profound and lasting.

The initiative for Soviet democracy is a three-pronged plan.

First, we would create a United States-Soviet Democracy Center in Moscow. This would be an institute where American and Soviet experts would determine the best means to address Soviet deficiencies in legal, business, and English language skills. The center would serve as a focal point for the numerous private efforts already out there to strengthen democracy and a market economy. It would sponsor training programs for Soviet policymakers, and issue policy recommendations to the United States President and Congress.

Second, the initiative would create two new Peace Corps programs. One, known as the United States-Soviet Democracy Corps, would send 100 American graduates of law, public policy, or business schools to serve as interns and advisers to a variety of republic governmental institutions. Another Peace Corps program, the United States-Soviet English language initiative, would send 200 volunteers to teach English in the republics.

Finally, the initiative would create leadership-by-example groups, or LEGS, a program of fellowships for young Soviet lawyers, lawmakers, and academics to spend 1 year observing American Government institutions at all levels.

Mr. President, the total proposed funding for this program is $12 million in fiscal year 1992, and $18 million in fiscal year 1993. This 2-year sum of $30 million represents less than one-fourth of 1 percent of the foreign aid budget. More importantly, it represents a wise investment in our own long-term security. And to forsake such an approach now because of party politics or a desire to score short-term political points would be terribly misguided.

We have heard in the last several weeks a strong sentiment against foreign aid boondoggles. We have heard cries for America first. These pleas come from the hearts of many Americans, and as I said Wednesday, I am among those who believe that if we don't take care of our problems at home, we won't be able to help anyone else. But Mr. President, the initiative for Soviet democracy is not a giveaway. It is not charity. It is—plain and simple—an act of rational self-interest. We are dealing with a very special case in the Soviet Union, the only entity with 30,000 nuclear warheads, 12,000 of them able to reach the United States.

It helps America if we start now, at this enormously uncertain time, to build lasting relationships with the young pro-Western, pro-American future leaders of the Soviet Republics. This is not a foreign aid issue. It is a national security issue.

As I said before, this initiative is a modest proposal. Let's remember how much the Soviets have to learn about democracy—about representation, about public accountability, about checks and balances, about regulatory law, about the relationship between free markets and political liberty. They have so much to learn, Mr. President, and so little time. The Soviet winter is coming, and their economy is mired in a disaster of unknown proportions. But we must start somewhere, and in a way that will provide lasting and concrete returns. This proposal is cost effective. It creates no bureaucracy. It relies not on huge grants of cash but on the sharing of American technical expertise. Programs like the Democracy Center, the Democracy Corps, the English language initiative, and the LEGS fellowships are seeds which we must plant now if we want to see freedom, peace, and demilitarization blossom in Moscow next spring.

Mr. President, in the years after World War II, America and the Soviet Union became locked in a costly cold war. Forty-five years and trillions of dollars later, we are so tantalizing close to a final resolution of that cold war. It is true that in this recession, we can't afford to throw money away. But to make a small investment now to ensure that the Soviets give freedom a chance is not a wasteful use of our funds. It is common sense. It is in the American interest. We have an unprecedented opportunity to consolidate the gains made by democratic reforms in the Soviet Union. For our own sake, let's finish the job we started.•

BY Mr. KENNEDY (for himself, Mr. SIMON, Mr. CRANSTON, Mr. WELLSTONE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. ADAMS, Mr. METZENBAUM, Mr. HARKIN, Mr. INOUYE, Mr. SARBANES, Mr. LIEBERMAN, Mr. GORE, Mr. MOYNIHAN, Mr. LEAHY, and Mr. KERREY):

S. 2023. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on Governmental Affairs.

NEW COLUMBIA ADMISSION ACT

Mr. KENNEDY. Mr. President, today, I am reintroducing legislation to grant statehood to the District of Columbia.

This legislation fulfills a fundamental right that no self-respecting democracy can ignore. Statehood is a matter of simple justice for the 600,000 citizens of the District of Columbia. All of the old arguments against it are more threadbare than ever.

The District of Columbia has a strong private sector and a sound economic base. It is time to put to rest, once and for all, the shameful myth that the District is nothing more than a collection of Federal monuments, federal workers, and foreign embassies. It is a living, breathing, thriving city that is home to large numbers of Americans who discover the same basic rights that all other Americans enjoy.

Contrary to popular belief, 70 percent of D.C. residents are employed outside the Federal Government. District residents pay more taxes to the U.S. Treasury than eight States. If taxation without representation is wrong for those states, it is wrong for the District of Columbia.

Nothing in the Constitution prevents statehood for the District. The proposed legislation carves out the Capitol, the White House, and other essential parts of the Federal Government, and Congress will continue to exercise exclusive jurisdiction over this area. That is all the Constitution requires.

The citizens of the District of Columbia are ready for this step. They want it and they deserve it. In 1980, they voted for statehood by a margin of 59 to 40 percent.

For generations, the residents of the District of Columbia have borne the burdens and responsibilities of U.S. citizens. The District lost more young men in the Vietnam war than 10 States. In the Persian Gulf war, the District of Columbia ranked fifth per capita, in reserves called to active duty. By every standard, the citizens of the District of Columbia deserve to be citizens of a State, not citizens of America's Last Colony.

We all know what's going on here. Opponents of statehood have felt in the past that the District of Columbia is too urban, too liberal, too Democratic, too black.

Those arguments can't stand the light of today. They're an insult to everything America stands for. No Americans anywhere in this country should have lesser rights because of where they live, their social philosophy, their political party, or the color of their skin.

It is time to end this disgraceful double standard. It is time to make the District of Columbia the 51st star in the American flag. And when we do, the flag will fly higher and prouder, because our democracy will be fairer and stronger.

"Fifty-four forty or fight" was a great American rallying cry of the past. May our rallying cry now be "Fifty-one in '92"—statehood for the District of Columbia in 1992.

Mr. SIMON. This year, as we celebrate the bicentennial of the District of Columbia, I am pleased to join my colleague Senator KENNEDY in reintroducing legislation to grant statehood to the District of Columbia. The residents of the District of Columbia have voted on and duly presented their application for statehood to Congress. Congress should debate and, ultimately, honor their request for admission.

I have supported national representation for the residents of the District of Columbia since I was a House Member in the 1970's. It is patently unfair for D.C. residents to be the hosts of Congress and yet have no voting representation in either the House or the Senate.

As Americans, we take for granted our right to contribute to national policy and to have representation in government. But those who move from Illinois or another State to Washington, DC, lose the rights they once enjoyed. They lose the right to voting representation in Congress as well as some measure of control over local schools and Government. This situation is discriminatory, yet it is correctable.

Our bill responds to the petition for statehood approved by the residents of the District of Columbia. It grants equal rights to the two-thirds of a million Americans who live in the District of Columbia. It gives them the right to do what other Americans have the right to do—elect two U.S. Senators and a voting Member of the House of Representatives. The bill further removes congressional control over many local activities of the District government and puts that power in the hands of local residents, where it belongs.

There are those who say that statehood for the District of Columbia requires an amendment to the Constitution rather than congressional passage of a statute. As chairman of the Senate Subcommittee on the Constitution, I have considered that argument and I am convinced that a constitutional amendment is not required.

Article I, section 8, clause 17 of the U.S. Constitution provides for a district of not more than 100 square miles, outside of the boundaries of any State, to serve as the Nation's Capital. At present, the District measures 68.25 square miles. The Constitution specifies no minimum area. A bill that grants statehood to much of the present District, while leaving a Federal enclave to serve as a capitol under the control of Congress would meet the requirements of article I. Our bill does that.

According to current census figures the residents of the District of Columbia outnumber the residents of three States—Wyoming, Alaska, and Vermont. When President Monroe signed the proclamation to make Illinois the 21st State in 1818, our Illinois population was just 55,211, less than 10 percent of today's District population.

Furthermore, District residents pay more in Federal taxes than eight States. Yet District residents have no voice when Congress votes on these taxes.

U.S. citizens in the District of Columbia serve in the military and have been subject to the draft. When we went to war in the Persian Gulf, the District of Columbia ranked fifth on a per capita basis in the number of reservists called to active duty. District residents had no voting representation on the floors of Congress during the historic vote to authorize a war in the Persian Gulf. District residents cannot vote for those in Congress who set our defense, foreign, and military policies. Can we just sit back and continue to accept this inequity within our country?

We have welcomed the democratic change sweeping Eastern Europe. It is ironic that the residents of Warsaw, Prague, and the other East European capitals all will have voices in their new legislatures, while the citizens of our Capital still do not. Accepting the District of Columbia as a State will end this inequity once and for all. I encourage my colleagues to cosponsor this important legislation.

By Mr. BOND (for himself, and Mr. DANFORTH):

S. 2024. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991

• Mr. BOND. Mr. President, Senator DANFORTH and I are pleased to introduce legislation today which protects one of the most beautiful parts of our State—the Greer Spring tract in southeastern Missouri. It is identical to H.R. 3604, which was recently introduced by Congressman EMERSON and cosponsored by all members of the Missouri congressional delegation. It has been reported by both the House Agriculture and Interior Committees and the full House is scheduled to approve it before the Thanksgiving recess.

This breakthrough represents 4 long, hard years of dedicated negotiation by all the parties involved—Congressman EMERSON, Congressman VOLKMER, the current landowner, Mr. Leo Drey, and Missouri environmental groups. It is an excellent proposal which will preserve and protect this beautiful site, which is the second largest spring in the State, while allowing access to hikers, fishermen, hunters, and for forest management needs.

The legislation directs the Secretary of Agriculture to acquire 7,000 acres, including and surrounding Greer Spring. The 2,500 acres along the Eleven Point River, which includes the Spring, would be added to the Wild and Scenic Rivers corridor and managed under the current stringent guidelines. The remaining 4,500 acres would be designated the Greer Spring Special Management Area and managed under spe-

cial guidelines for outdoor recreation, protection of the area's natural, archaeological and scenic resources, timber harvesting, mining and vehicular access. Hunting and fishing would be permitted within the special management area.

Fortunately, the $4 million needed to purchase the property is assured. Senators DANFORTH and EAGLETON secured $1.5 million in fiscal year 1987; Senator DANFORTH and I obtained $2 million in fiscal year 1989. In addition, Anheuser-Busch will make a generous contribution of $500,000.

Safeguarding this scenic land will preserve an essential part of Missouri's natural heritage. Greer Spring embodies the untouched wilderness that confronted explorers, pioneers, and settlers when they crossed the Mississippi River into Missouri territory. Preserving this tract will allow our children to enjoy the land that challenged and nurtured their forefathers.

I will pursue its passage at the earliest date, hopefully before Congress adjourns for the year.●

By Mr. SIMON (for himself, Mr. KOHL, Mr. BRADLEY, and Mr. CRANSTON):

S. 2025. A bill to authorize grants to State, local, and private entities for programs to prevent youths from becoming involved in gangs; to the Committee on Labor and Human Resources.

PREVENTION OF YOUTH INVOLVEMENT IN GANGS

● Mr. SIMON. Mr. President, I rise today to introduce legislation to establish the Early Gang Prevention Center Grant Program. This program builds on my earlier efforts to address the gang problem, the Gang Prevention Grant Program, which became law in 1988. The success of programs funded under this effort pointed out two things; we desperately need to continue working with youth involved with gangs and we must broaden our focus to include effective prevention for younger children.

Due to the dramatic rise of violent crimes by juveniles, the Justice Department, through the Office of Justice Programs—OJP—has begun to hold a series of site studies on gang crime throughout the Nation. Testimony at the recent hearings in Chicago provided a grim insight into the lives of those who are on the front lines combatting gang violence. Cook County State's Attorney Jack O'Malley spoke of the first degree murder charges filed against two gang members, 13 and 14 years old, for killing another 14 year old, apparently over recruitment. Mothers told stories of hiding their children in bathtubs when gang members start shooting. One mother testified that one of the few sentences that her 2-year-old child knows is: "Get down, get down, they're shooting." In Chicago, it has come to this.

The Early Gang Prevention Center targets the growing number of youth in our country joining gangs. These youth believe that becoming a gang member is their most worthwhile option. The loyalty among gang membership provides a secure family, and the profits from gang-related illegal activities such as drug trafficking are a powerful draw. However, the life of a gang member can be a violent one. Gang-related crime and violence have continued to increase at an alarming rate. In Chicago alone, gang-related homicides have risen from 38 in 1980 to 101 in 1990. Already many neighborhoods, both in urban and rural areas, are virtually controlled by gangs.

Both the public and private sectors have come up with strategies to deal with this growing problem. Attempts to lure youth away from gangs have revealed that gang members rarely leave their gangs. At the Chicago hearings, local law enforcement officials and residents alike stressed the importance of child oriented programs as the only real answer to the gang problem. We must concentrate on prevention and target those young people at risk of becoming a gang member. We must educate our youth to let them understand that gangs are a dead end. They need support to resist gang membership, as well as alternatives that allow them to pursue healthy avenues for their lives.

The Early Gang Prevention Center Program would allow professional staff to work through the school system and public housing to reach youth at the elementary level, when youth are seriously thinking of gang membership. Reaching out through the school system and public housing has been extremely successful as they provide the structure and consistency required for effective prevention. Staff would educate youth about the dangers of gangs, organize antigang action in the communities in which the youth live and cooperate with the social service agencies who already provide services for youth and their families. In addition, staff would be available for counseling at-risk youth and crisis intervention as needed. Successful prevention involves addressing all the complexities of this problem. Only through a multifaceted approach can we begin to effectively steer away youth from gang membership.

Without preventing these youth from becoming involved in gangs, we will see gang-related crime and violence rise to previously unheard of levels. We cannot afford to have thousands more of American youth joining gangs. It is imperative that we take action now to prevent our youth from becoming involved in activities that kill opportunities to lead a healthy and productive life, or more importantly, kill them. The Early Gang Prevention Center Grant Program gives young people a chance to fight off the powerful pull of gang membership. Gangs are fierce in their recruitment efforts. We must be just as forceful in our efforts to keep youth out of gangs. Strong prevention efforts, like this program, are the way to do that. We cannot afford to wait another day. It could be a matter of life and death.

Mr. President, I ask unanimous consent that the text of this bill be included in the RECORD following my remarks.

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

S. 2025

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

SECTION 1. PREVENTION OF YOUTH INVOLVEMENT IN GANGS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to State and local government agencies and to private entitles to establish and carry out programs to prevent elementary school children from becoming in volved in gangs.

(b) USE OF FUNDS.—Grants made pursuant to subsection (a) shall—

(1) target elementary school students, with the purpose of steering students away from gang involvement;

(2) provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed;

(3) develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs; and

(4) include a special location within the school or housing project for program activities.

(c) APPLICATION.—(1) An entity that desires a grant under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) An application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) REPORTS BY GRANT RECIPIENTS.—Each recipient of a grant under this section shall submit a report to the Secretary of Health and Human Services annually that—

(1) describes the activities that were carried out with grant funds during the preceding year; and

(2) describes the recipient's plans for the coming year.

(e) REPORTS BY THE SECRETARY.—The Secretary of Health and Human Services shall annually make an assessment of and report to Congress on the effectiveness of the grant program established by this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994.●

By Mr. MACK:

S. 2026. A bill to assure the protection of Haitians in the United States or in United States custody pending the

resumption of democratic rule in Haiti; to the Committee on the Judiciary.

HAITIAN REFUGEE PROTECTION ACT OF 1991

• Mr. MACK. Mr. President, for weeks now we have been witnessing a tragic story of human suffering in Haiti as that country's people have demonstrated to the world the value they place on freedom. We've been reminded again just how precious freedom is and how equally difficult it can be to obtain.

Cuban news sources have reported that at least 120 Haitians are feared dead as a boat crammed with 200 people fleeing to the United States for freedom had sunk.

We cannot continue to operate a policy toward Haitian refugees that is based solely on damage control and crisis management. We must develop a lasting policy that works.

The argument that we should interdict and return Haitians to prevent further loss of lives only demonstrates that what is needed is an orderly safe process for Haitians seeking freedom.

Today, I am introducing legislation which provides the road to freedom without forcing people to risk their lives at sea. The bill essentially does two things:

First, it sets aside at least 2,000 refugee admission slots specifically for Haitians. This provision provides the process within which Haitians may flee persecution without compelling them to brave the high seas and risk their lives. This bill also provides that these 2,000 slots do not deplete the current 3,000 allotment for refugees admissions from Latin America and the Caribbean. I would encourage other freedom-loving nations throughout the world to take on a similar responsibility.

Second, the bill grants temporary protected status [TPS] to Haitians who are currently in the United States or who are in the custody or control of the United States. Importantly, the language in this bill ensures that those granted TPS will be able to access necessary Federal Assistance. As the first point of entry to the United States, Florida must be assured that the Federal Government will take its proper financial role.

Regrettably, our Haitian refugee policy has lost touch of the universal principal of freedom. It is a disgrace to intercept Haitians on the high seas fleeing persecution only to send them back to an island run by an illegal military leadership that rules by fear and violence.

Since the illegal military coup September 30, the Haitian people have lost hope that freedom will be theirs at last.

Now, more than ever, the United States must take a leadership role and call on all freedom-loving nations to band together to help restore Haiti's democracy. Once free, the Haitian people will have the opportunity to rebuild their country.

In the meantime, any immigration policy that systematically applies a double-standard to Haitians is morally wrong. That's why this bill is so essential. It corrects the injustice in our current policy that discriminates against the poorest of our Caribbean neighbors. It provides a logical and systematic plan for allowing Haitian refugees who are persecuted to come to the United States without crossing teacherous seas.

Haitian people are like any other on this Earth. They desire to live free. To treat them differently ignores the principles of freedom that have made this Nation great.

Freedom is the core of all human progress. When we forget that lesson, we have cheated ourselves and others who long to be free.•

By Mr. CHAFEE (for himself and Mr. BINGAMAN):

S. 2027. A bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare Program; to the Committee on Finance.

ELIMINATION OF ANNUAL CAP FOR MEDICARE PAYMENT FOR CERTAIN OUTPATIENT SERVICES

• Mr. CHAFFE. Mr. President, today I am introducing legislation to make it easier for senior citizens to get needed physical therapy services through the Medicare Program. These services are critical to individuals who have suffered from such conditions as stroke or heart attack. My bill eliminates an existing $750 cap on payments for physical therapy or occupational therapy provided by therapists in independent practice.

Under current Medicare law, there is no limit to physical therapy services when they are provided either in a physician's office, or on an outpatient basis in a hospital. Medicare does, however, limit reimbursement for services provided by an independent physical or occupational therapist to $750 per calendar year. When a patient who receives services from an independent therapist reaches his or her limit, the patient must either stop treatment, change to a therapist in a physician's office or a hospital, or pay for these services out-of-pocket. Not only is it a burden for seniors to change providers, but for those Medicare patients who live in areas where there is a shortage of health care providers, a therapist in a physicians office or hospital may be unavailable, or reachable only by traveling long distances.

Some may argue that removal of this cap will significantly increase Medicare expenditures for physical therapy services. The Health Care Financing Administration [HCFA] however, has placed the services of these physical therapists under the new Medicare physican fee schedule and volume performance standards. These regulations would control payment for services performed by independent practitioners based on a fee schedule. Therefore, an arbitrary cap on reimbursement is no longer necessary.

Beside decreasing the availability of services to senior citizens, the current limit may actually increase costs to the Medicare Program. According to 1988 data, Medicare paid on average $1.62 less for physical therapy services by independent providers than for these same services when provided by a physician. Although $1.62 doesn't seem like much, when multiplied by the 1 billion physical therapy procedures that were billed to Medicare in 1988, the cost becomes clear.

My legislation would allow patients in need of physical and occupational therapy to receive these services without having to face the possibility of terminating treatment early, or continuing treatment elsewhere, because of a predetermined limit on Medicare reimbursement. I hope that my colleagues will join me in sponsoring this legislation which assures our senior citizens access to these critically needed services.•

By Mr. SPECTER:

S. 2028. A bill to amend title 38, United States Code, to improve and expand health care and health-care related services furnished to women veterans by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

WOMEN VETERANS' HEALTH EQUITY ACT

Mr. SPECTER. Mr. President, I am today introducing the women veterans' health equity bill of 1991. The purpose of this legislation is to begin the long march toward equality in treatment for our 1.2 million women veterans within the VA health care system.

BACKGROUND: A HISTORY OF PROUD SERVICE

Since the founding of our republic, women have served both in and as an adjunct to our Armed Forces. As we know, although 34,000 women served during World War I, women were brought into military service for the first time in large numbers in World War II, when some 384,000 women wore the uniform. Although women's components of the military were to have been phased out after the war, they remained as part of the peacetime military for the best reason of all: Their strong record of service. That decision was proved sound, as some 110,000 women served in the Korean conflict, while 261,000 served in Southeast Asia during the Vietnam era.

Of course, Mr. President, we have only recently witnessed the dramatic contribution of women in the military in the Persian Gulf war, as some 33,000 women soldiers were deployed in Southwest Asia. These brave women served in key combat-support positions: They served as pilots and crew members of planes and helicopters,

drove trucks, ran prisoner-of-war facilities, served on support and repair ships, and built the infrastructure in construction battalions.

Today, the 233,000 women in uniform constitute 11 percent of our Active Force, while 155,000—13 percent—serve in our Ready Reserve. What is most impressive is that less than 20 years ago, women comprised less than 2 percent of America's military. Further, women veterans are currently the fastest-growing segment of the veteran population: Our 1.2 million female vets comprise 4.3 percent of the total veteran population. By the year 2000, that percentage will increase to 5.3 percent.

But we do not have to go just by statistics. Last July, when the Committee on Veterans' Affairs held its important hearings on the readjustment needs of Persian Gulf war veterans, I invited members of the 14th Quartermaster Detachment from Greensburg, PA to testify. Among others, we heard the testimony of Sgt. Mary Rhodes of California, PA, and Specialist Tracy Akra of Harrisburg, both wounded in the infamous Scud attack. Since then, my staff and I have maintained close contact with the 14th, including Specialist Angela Betton of North Versailles, PA, and Specialist Lois Abreski of North Huntington, PA, both still recovering from wounds at Walter Reed Army Medical Center here in Washington. These are remarkable individuals, Mr. President, of whom all Americans may be proud.

THE NEED FOR CHANGE

It is clear that women are, and have been, an integral part of our Nation's military and, as a result, of our Nation's veterans. And although the Department of Veterans Affairs [VA] has responded aggressively in many instances to womens' needs in the past few years, it is my view that much remains to be done.

This bill is aimed at correcting what I believe is the most important issue facing women veterans: Health care within the VA system. The VA has done good work in the general field of health care. Through a system comprised of 172 hospitals, and hundreds of outpatient clinics and readjustment centers, VA is engaged in important treatment and research. But frankly, Mr. President, that treatment and that research is primarily aimed at issues that affect men. That is simply an historical fact.

It is my firm belief that our commitment to quality of health care for women veterans receive must match the commitment these citizens have made to their country. I think that it is time to intensify VA's focus on women veterans. And that is what I intend to do through the Women Veterans' Health Equity Bill of 1991. This bill would address health issues affecting women veterans, both in terms of treatment and in terms of research.

EQUITY IN TREATMENT

In terms of treatment, the bill would require that VA provide "well-women care services" to two critical classes of women veterans: Those who suffer from a service-connected disability and those whose income would qualify them for mandatory inpatient treatment—currently $18,171 per year. These services, which would be directed toward the health-care needs of both younger and older women veterans, would include pap smears, breast exams, reproductive health care and family planning services.

I believe, Mr. President, that these services proposed in my bill are not only vital to women veterans, but that they also are in line with VA's admirable drive to emphasize preventive health-care services within the system.

EQUITY IN RESEARCH

The Department of Veterans Affairs has long been a leader in health-care research. We are justifiably proud of the pioneering work that has been done by the dedicated men and women working for, or under the auspices of, VA. And we match that pride with dollars: President Bush recently signed Public Law No. 102-139, the VA/HUD appropriations bill, which authorizes some $227 million for medical and prosthethic research.

Nevertheless, not very much of that money goes directly to issues which concern women. Indeed, when I was preparing this bill, Mr. President, VA could identify only about $1.7 million that was directed at research specifically involving women, and that figure was derived from a single researcher who, out of personal interest, kept track of that number. And even this $1.7 million is not exclusively from the VA appropriation: It includes funding from other Federal sources. Because of my view of the importance of the health-care needs of women veterans, I do not believe that is enough. Nor do I believe that VA should not have good figures on this important work.

To deal with these issues, my bill would require an expansion in VA medical research to focus on areas with health consequences for women, including breast cancer and osteoporosis, with 3-year funding of $6 million. In addition, VA would be required to coordinate its research relating to women veterans, so that those involved in these important areas are aware of what is being done.

In connection with this expansion of VA research, there is another area that is of considerable interest to me and, I believe, to women veterans. It concerns gender discrepancies involving the incidence of mental illness. In 1990, 14.8 percent of women were hospitalized within the VA with a diagnosis of psychotic illness; during that same period, 8.9 percent of men's admissions were for the same reason. We know also that psychotic illnesses suffered by male veterans are more likely to be related to alcohol than psychotic illnesses suffered by women veterans. We simply do not know the reasons for these disparities. Accordingly, this research provision of my bill would require a directed research study to examine this reported disparity.

Another important area, Mr. President, is finding out exactly what the health-care needs of our women veterans are. No such major study has been done since 1985, when VA commissioned Louis Harris and Associates to perform a population study of women veterans. At that time, the study seemed to indicate that women veterans had a cancer rate of 8.6 percent, as opposed to a rate of 5.2 percent in the general population of American women. That study also found that most frequently occurring cancer among women veterans was cancer of the reproductive organs, which occurred twice as often as breast cancer, while the general population of American women had exactly the opposite result.

Those are disturbing statistics, Mr. President. But what is perhaps most disturbing is the fact that the Harris Population Study is the only source we have to describe the population of women veterans. We need an update.

Accordingly, this bill would require VA to conduct a population study of women veterans and active-duty women, aimed at determining and predicting the health-care needs of women veterans, with an authorization of $1.5 million. This study is essential, Mr. President, if we are to enable the VA health-care system to meet the demands—now and in the future—of women veterans. The information collected will assist VA and veterans by targeting those needs and working out strategies, both in terms of treatment and research, to deal effectively with the needs of this population.

Another aspect of VA research that is important to me is ensuring that, when medical research based on an analysis of population is done, it is directed at issues important to and done in a way that will produce results meaningful to our women veterans. Accordingly, my bill would require that VA, in conducting medical research based on analysis of populations—in other words, epidemiological research—take into account problems significant to women, and that VA ensure that the population studied is representative of the number of women in the general population.

Finally, Mr. President, in order to ensure that Congress is able to keep current on the status of VA's research regarding women veterans, my bill would require VA to report annually to the Committees on Veterans' Affairs of the Senate and House of Representatives, from 1992 through 1995, on the status of research on women veterans.

CONCLUSION: LEADING THE WAY

The Women Veterans' Health Equity Act is an important step forward, Mr.

President. I know that it is not the solution to all the problems facing women veterans. But by providing a critical package of preventive health-care services and by requiring significant medical research relating to women veterans, I believe my bill will lead the way to a new and long-overdue emphasis on the needs of these patriots.

It has been said, Mr. President, that no nation can long survive that does not remember those who defended her. This Nation, through its extensive program of veterans' benefits, has shown that we do remember. But I believe our memories are unjustifiably hazy when it comes to the women who have put themselves in harm's way. My bill seeks to clear away that haze, to move us to the day when we do not speak of "men veterans" and "women veterans," but simply "veterans."

I urge my colleagues to support me in this mission.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my remarks, and that a detailed section-by-section analysis of the bill be placed immediately thereafter.

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

S. 2028

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 "Women Veterans' Health Equity Act of 1991".

SEC. 2. WELL-WOMEN CARE SERVICES.

(a) REQUIREMENT TO PROVIDE SERVICES.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"§ 1771. Well-women care services

"(a) The Secretary shall furnish well-women care services to the women veterans referred to in subsection (b) in accordance with this section.

"(b)(1) The Secretary shall furnish well-women care services under this section—

"(A) to any woman veteran who has a service-connected disability; or

"(B) to any woman veteran who is eligible for hospital care under section 1710(a) of this title and the annual income of that veteran (as determined under section 1503 of this title) does not exceed the maximum rate of pension that would be payable to that veteran if that veteran were eligible for pension under section 1521(d) of this title.

"(2) Subject to section 1712(f) of this title, the Secretary may furnish well-women care services to a woman veteran who is eligible for hospital care under section 1710 of this title and who is not otherwise eligible for such services under this subsection.

"(c)(1) Except as provided in paragraph (2), the Secretary shall furnish well-women care services under this section in Department facilities through personnel of the Department who are qualified in the furnishing of such services.

"(2) In the event that the furnishing of well-women care services in facilities referred to in paragraph (1) is not feasible because of geographic inaccessibility or other reason determined by the Secretary, the Secretary may furnish such services by contract with non-Department facilities (including community-based health care organizations, private health care contractors, and non-profit health care facilities) through appropriately qualified personnel of such facilities.

"(3) The Secretary shall prescribe qualifications for the furnishing of well-women care services applicable to the personnel referred to in paragraphs (1) and (2). The Secretary shall ensure that such qualifications apply uniformly to personnel of the Department and personnel of the facilities referred to in paragraph (2).

"(d) In order to furnish well-women care services under this section, the Secretary shall take such actions as the Secretary considers appropriate to encourage the employment and retention by the Department of gynecologists and other health care professionals who are qualified to furnish such services.

"(e)(1) For the purposes of this section, the term 'well-women care services' means health care services provided to women outside the maternity cycle, including counseling and services relating to the following:

"(A) Papanicolaou tests (pap smear).

"(B) Breast examinations and mammography.

"(C) The number and spacing of children.

"(D) Contraception.

"(E) General reproductive health care.

"(F) The management of infertility.

"(G) Adoption.

"(2) Well-women care services under this section do not include the following:

"(A) Pregnancy care (including prenatal and delivery care).

"(B) Abortion.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER VIII—WELL-WOMEN CARE SERVICES

"1771. Well-women care services.".

SEC. 3. EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS.

(a) EXPANSION OF MEDICAL RESEARCH PROGRAM.—(1) Subject to paragraph (3), in carrying out the medical research program of the Department under section 7303 of title 38, United States Code, the Secretary, in consultation with the Chief Medical Director (who shall consult with the Assistant Chief Medical Director for Nursing Programs), shall initiate research and expand on-going research into the health consequences for women veterans of the matters referred to in paragraph (2).

(2) The Secretary shall initiate and expand research under paragraph (1) on the following matters as they relate to women:

(A) Breast Cancer.

(B) Gynecological and hormonal matters.

(C) Cancer of the organs of the reproductive system.

(D) Alzheimer's Disease.

(E) Osteoporosis.

(F) Post-traumatic stress disorder.

(3) The Secretary shall carry out the research referred to in paragraph (1) by any of the following means designated by the Secretary:

(A) Through personnel of the Department in facilities of the Department, including facilities of the geriatric research, education, and clinical centers designated pursuant to section 7314 of title 38, United States Code.

(B) Through personnel of appropriate independent medical research organizations (as determined by the Secretary) under a contract with or grant from the Secretary for such research.

(C) Through personnel of other departments and agencies of the Federal Government (including the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Department of Defense) under an agreement between the Secretary and the head of the department or agency for the performance of such research.

(b) RESEARCH STUDY.—The Secretary shall carry out a research study to determine—

(1) the frequency of the diagnosis of psychotic illness as the basis for the admittance of women veterans to facilities of the Department;

(2) the frequency of the diagnosis of that illness as the basis for the admittance of male veterans to such facilities; and

(3) an explanation for the difference, if any, in the frequencies referred to in paragraphs (1) and (2).

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of Veterans Affairs to carry out subsections (a) and (b) as follows:

(1) For fiscal year 1993, $1,500,000.

(2) For fiscal year 1994, $2,000,000.

(3) For fiscal year 1995, $2,500,000.

SEC. 4. POPULATION STUDY OF WOMEN VETERANS.

(a) STUDY.—(1) Not later than December 31, 1993, the Secretary shall conduct a study to determine the health-care needs of women veterans as of that date and during the ten-year period beginning on that date.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans established under section 542 of title 38, United States Code, and, in consultation with the Secretary of Defense, the Advisory Committee on Women in the Services.

(3) In carrying out the study, the Secretary (with the assistance of the Secretary of Defense) shall examine the medical, biopsychosocial, and demographic histories of an appropriate sample of women veterans and women members of the Armed Forces who are serving on active duty. The sample shall include women veterans and women members of the Armed Forces who are serving on active duty who represent (as determined by the Secretary) the full range of ages, and ethnic, social, economic, and service-related backgrounds of such women. The protocol for the study shall meet standards for scientific merit prescribed by the Secretary.

(b) REPORT.—Not later than April 1, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study carried out under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs $1,500,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

SEC. 5. COVERAGE OF WOMEN IN THE MEDICAL RESEARCH PROGRAM OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) COVERAGE REQUIREMENT.—Subchapter I of chapter 73 of title 38, United States Code, is amended by inserting after section 7303 the following new section:

"§ 7303A. Research programs: requirements relating to research on women veterans

"(a) In initiating and carrying out any research referred to in subsection (b) that is based on an analysis of a population of persons, the Secretary shall ensure that, to the maximum extent practicable—

"(1) the matters researched reflect (as determined by the Secretary) matters that are significant for the general population of women in the United States; and

"(2) the population analyzed in such research are representative (as so determined) of the incidence of the condition or illness in the general population of women in the United States.

"(b) The research referred to in this subsection is any research carried out by or under the jurisdiction of the Secretary under section 7303 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7303 the following new item:

"7303A. Research programs: requirements relating to research on women veterans.".

SEC. 6. COORDINATION OF RESEARCH OF THE DEPARTMENT OF VETERANS AFFAIRS RELATING TO WOMEN VETERANS.

Section 7303A of title 38, United States Code (as added by section 5), is amended by adding at the end the following new subsection:

"(c) To the maximum extent practicable, the Secretary shall take appropriate actions to ensure that personnel engaged in research pursuant to a research program under section 7303 of this title—

"(1) are informed of the existence and progress of other research relating to women veterans conducted by or under the jurisdiction of the Secretary; and

"(2) have access to such research.".

SEC. 7. REPORT ON RESEARCH RELATING TO WOMEN VETERANS.

Not later than July 1 of each of 1992, 1993, 1994, and 1995, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) a description (as of May 31 of the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary (including the research carried out under section 3 of this Act and section 7303A(a) of title 38, United States Code (as added by section 5 of this Act)); and

(2) recommendations of the Secretary as to future research (including a proposal for any legislation relating to such research) relating to women veterans.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) The term "Secretary" means the Secretary of Veterans Affairs.

(2) The term "Department" means the Department of Veterans Affairs.

(3) The term "facilities of the Department" means the following facilities at which the Secretary furnishes medical services:

(A) Facilities over which the Secretary has direct jurisdiction.

(B) Government facilities for which the Secretary contracts.

(4) The term "medical services" has the meaning given such term in section 1701(6) of title 38, United States Code.

(5) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SECTION-BY-SECTION ANALYSIS ON THE WOMEN VETERANS' HEALTH EQUITY ACT OF 1991

SECTION 1: SHORT TITLE

Section 1 would give the bill the short title of the "Women Veterans' Health Equity Act of 1991."

SECTION 2: WELL-WOMEN CARE SERVICES

Section 2 would add new section 1771 to title 38, United States Code, with the title "Well-Women Care Services."

New section 1771(a) and (b) would require the Secretary to furnish well-women care services to women veterans who (1) have a service-connected disability or (2) are otherwise eligible for VA hospital care and whose incomes do not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension (currently $18,171 for a single veteran). The Secretary would have the discretion to furnish well-women care services to women veterans who are not eligible under the above criteria, but are otherwise eligible for hospital care.

New section 1771(c) would require the Secretary to furnish well-women care services (1) in Department facilities by Department personnel qualified to furnish such services, or (2) by contract with non-Department facilities. New section 1771(c) would also require the Secretary to prescribe the qualifications for the furnishing of well-women care services both in Department and non-Department facilities.

New section 1771(d) would require the Secretary to take appropriate action to encourage the employment and retention by VA of gynecologists and other health care professionals who are qualified to furnish well-women care services.

New section 1771(e) would define "well-women care services" as the health care services provided to women outside the maternity cycle, including counseling and services relating to (1) pap smears; (2) breast examinations and mammography; (3) the number and spacing of children; (4) contraception; (5) general reproductive health care; (6) the management of infertility; and (7) adoption. Well-women care services would specifically exclude pregnancy care (including prenatal and delivery care) and abortion.

SECTION 3: EXPANSION OF RESEARCH RELATING TO WOMEN VETERANS

Section 3 of the bill, in a freestanding provision, would require the Secretary, in carrying out the Department's medical research program under section 7303 of title 38, United States Code, to initiate and expand, in consultation with the Chief Medical Director (who whould be required to consult on this issue with the Assistant Chief Medical Director for Nursing Programs), research programs into the health consequences for women veterans with respect to (1) breast cancer; (2) gynecological and hormonal matters; (3) cancer of the organs of the reproductive system; (4) Alzheimer's disease; (5) osteoporosis; and (6) post-traumatic stress disorder. Such research would be conducted through VA personnel, through personnel of appropriate independent medical research organizations, and/or through personnel of other departments and agencies of the Federal Government.

Section 3 would also require the Secretary to carry out a research study to determine whether there is a difference, between men and women veterans, of the frequency of psychotic illness as an admission diagnosis in VA Medical Centers, and, if so, the explanation for any such difference.

Finally, section 3 would authorize appropriations to carry out the section of $1.5 million in fiscal year 1993, $2.0 million in 1994, and $2.5 million in 1995. Funds would be available until expended.

SECTION 4: POPULATION STUDY OF WOMEN VETERANS

Section 4, in a freestanding provision, would require the Secretary to carry out a study to determine, not later than December 31, 1992, the current health-care needs of women veterans, and their predicted health-care needs over the next ten years. The Secretary would be required to report these findings to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than April 1, 1994. The Secretary, in preparing this study, would be required to consult with VA's Advisory Committee on Women and with the Advisory Committee on Women in the Services of the Department of Defense. Section 4 would authorize $1.5 million to carry out such a survey, with funds available for obligation until expended without fiscal year limitation.

SECTION 5: COVERAGE OF WOMEN IN THE VA RESEARCH PROGRAM

Section 5 would add new section 7303A to title 38, United States Code. New section 7303A would require the Secretary, in conducting any research based on population analyses under section 7303 of title 38, United States Code, to ensure that, to the maximum extent practicable, (1) the matters researched reflect the extent to which such matters are significant for the general population of women in the United States, and (2) that the populations analyzed reflect the incidence of the illness or condition studied in the general population of women in the United States.

SECTION 6: COORDINATION OF VA RESEARCH REGARDING WOMEN VETERANS

Section 6 would amend section 7303A (as added by section 5 of the bill) to require the Secretary to take appropriate actions to ensure that the existence and status of research programs or projects relating to women veterans is accessible to all personnel engaged in research pursuant to section 7303 of title 38, United States Code.

SECTION 7: REPORT ON RESEARCH RELATING TO WOMEN VETERANS

Section 7, in a freestanding provision, would require the Secretary, not later than July 1 of 1992 through 1995, to provide the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing (1) a description (as of May 1 of the relevant year) of the status of each research project relating to women veterans and (2) the Secretary's recommendations as to future research and legislation relating to women veterans.

SECTION 8: DEFINITIONS

Section 8, in a freestanding provision, would define "Secretary," "Department," "facilities of the Department," "medical services," and "veteran" for the purposes of the bill.

By Mr. SPECTER:

S. 2029. A bill to amend title 38, United States Code, to permit Department of Veterans Affairs medical centers to retain a portion of the amounts collected from third parties as reimbursement for the cost of health care and services furnished by such medical centers; to the Committee on Veterans' Affairs.

SELF-FUNDING OF VA HEALTH CARE

Mr. SPECTER. Mr. President, no veterans' issue has higher priority with

me than that of health care. It is critical that VA provide the best possible care to our veterans, particularly to those who have been disabled in service. Today, I am introducing legislation which, by providing an inventive for VA medical centers to increase collections from insurance companies, will substantially improve the quality of care at those centers.

My bill would amend title 38 of the United States Code to permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following 3 fiscal years the lesser of: First, the amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or second, the amount equal to one-half of that total amount.

It is no secret that the veterans' health care system is short of money, staff, and equipment. Rising medical costs and Federal budget constraints have tightened VA's budget and restricted the medical care it can provide to America's veterans.

Recently, Mr. President, the Committees on Veterans' Affairs of the Senate and House held an important joint hearing to take testimony concerning the forthcoming report of VA's Commission on the Future Structure of Veterans' Health Care. That blue-ribbon panel told us that, during the years 1980–90, VA's appropriated health-care funding, expressed in 1980 dollars, increased by about $600 million. That's an increase of about 10 percent. During that same period, the Commission told us, medical inflation skyrocketed by 117 percent.

As a veteran myself, as a member of the Committee on Veterans' Affairs for more than a decade, and now as banking Republican member, I find this situation profoundly disheartening. I salute Secretary of Veterans Affairs Ed Derwinski on the fine job he has done during the past few years to bring the VA health-care system back up to the quality our veterans should expect. The Secretary and I have spent many hours visiting VA medical centers in Pennsylvania and throughout the country. I know he's doing his best.

Still, it is up to us in the Congress to do our part as well. We are the ones, after all, who ultimately control the purse strings.

Since assuming the position of ranking Republican member on the Committee on Veterans' Affairs, I have worked hard to improve VA's health-care system. That was the key reason, for example, that I fully supported the Department of Veterans Affairs Physicans' and Dentists' Compensation and Labor Relations Act of 1991, which the President signed on May 7, 1991. This bill, by increasing pay for physicians and dentists in the VA health care system, will help attract and retain the kind of quality professionals our veterans deserve.

My concern for veterans was also the reason for my vote in support of Senator BUMPERS' amendment to H.R. 2519, the VA/HUD appropriations bill, which would have added some $430 million to VA's appropriation at the expense of the space station. That was not an easy vote, Mr. President. I know the space station is important. But when the choice is between delaying funding for the space station and veterans' health care needs, I must choose veterans. As I said during the debate on that amendment, "Fundamental budget priorities such as the veterans/related programs * * * take priority over a space exploration project."

That is also why I spoke out recently on the need for Geriatric Research, Education and Clinical Centers—known as "GRECC's"—in Pennsylvania. The kind of research performed by GRECC's, as demonstrated in a recent report by the Institute of Medicine of the National Academy of Science, can result not only in a better quality of life for our aging veterans, but also can be extraordinarily cost-effective. That is why I am working closely with Secretary Derwinski to establish GRECC's in Pennsylvania.

The legislation I offer today, Mr. President, is intended to continue to provide some relief from the budget crisis in the VA health system without the necessity of additional appropriations. And I am pleased to note that it is in direct agreement with one of the major recommendations of VA's Commission on the Future Structure of Veterans' Health Care. In his prepared testimony, Oliver Meadows, the Commission's chairman, said this:

> In our recommendations, we have tried to reconcile those conflicting problems of growing needs and national budget deficits. Our major recommendations in this area is that Congress authorize VA to be reimbursed for caring for veterans who are eligible for treatment in other settings—without that money being transferred to the Treasury or offset from appropriations you would otherwise authorize for VA programs.

This bill, Mr. President, is in line with that recommendation.

Under current law, VA hospitals and outpatient clinics are authorized to collect payment from third parties, such as private insurance companies, when veterans in these facilities are covered under their own policies. VA medical centers collect from these third parties, and—until last fall—sent the entire payment directly to the U.S. Treasury. Last November, in section 8011 of Public Law 101–508, the Omnibus Budget Reconciliation Act, we wisely added provisions which established the medical-care cost recovery fund. This fund is the depository for VA's collections, and the Secretary is authorized to use those funds to offset the costs of collection.

That was a good idea because it gave VA an incentive to spend money on the collection process. And it worked. When we passed OBRA, the Congressional Budget Office estimate revenues of $113 million from this provision for fiscal year 1991. In fact, VA collected $247.8 million from insurance companies. We've seen that this kind of incentive system works extremely well. And I'm certainly concerned that this process be as efficient as possible—those are important dollars which go toward reducing the deficit.

But frankly, Mr. President, I am more concerned with the provision of health care to veterans. And I think we can do better. I think we can draw on the desire to serve veterans that I know exists in the VA health-care system to bring more money and better treatment to the individual medical centers.

Let me give you some examples from my State.

During the period October 1, 1990 through June 30, 1991, the VA Highland Drive Medical Center in Pittsburgh established insurance receivables of nearly $3.2 million. To date, that center has collected about $500,000, an effective return of about 16 percent. Similarly, the VAMC in Butler, PA, has established receivables of about $4.6 million, and has collected $954,000 during that same period, a rate of 21 percent. Indeed, when we look at all VA Medical Centers in Pennsylvania for that period, we find insurance receivables established in the amount of $49 million, and collections of $8 million, a rate of about 16 percent.

What we're looking at, Mr. President, in Pennsylvania alone, is as much as $40 million in uncollected receivables.

My bill sets forth a simple idea: We already let VA keep some of its collections to pay for the administrative costs; let's permit the medical centers to keep some to provide patient care. I'm not saying VA should keep it all, Mr. President. I'm saying the medical centers should be able to keep up to one-half.

Let's use the Highland Drive Medical Center in Pittsburgh as an example. Suppose the director at Highland Drive knew that he could increase his budget by one-half of what his center collected. That's more than $1.5 million. I think it's obvious that he would do all he could to try for a 100 percent rate of recovery.

And suppose that the other hospital directors in Pennsylvania knew they could collectively increase their budgets by one-half of the $49 million in receivables. Mr. President, that could mean $24.5 million for veterans' health care in Pennsylvania, with $24.5 mil-

lion to the Treasury. And it wouldn't require a nickel in appropriations.

Even under conservative estimates, my bill would bring in significant amounts of money to VA medical centers. VA tells us that, under present conditions, it estimates collections of $325 million in fiscal year 1992. And we know that, under the VA-HUD 1992 appropriations measure, Public Law No. 102-139, VA can retain up to $77 million of that amount for the cost of collections. Under my bill, Mr. President, that would mean a system-wide return of about $124 million, and does not take into account the obvious incentive the bill would provide to medical center directors.

That's a good deal no matter how you look at it.

Now there will undoubtedly be some criticism of this bill because it is thought by some that the Office of Management and Budget will simply deduct the amount recovered from VA's health care budget. I have a direct response to the concern: Congress controls the purse strings. The Constitution provides that it is this branch, Mr. President, which decides how much money will be appropriated. I am fully prepared to battle OMB on veterans' funding, just as I was willing to delay the space station to provide more money for veterans' health care.

This is a fair compromise between the needs of reducing the deficit while still increasing the medical care accounts at our local VA hospitals. It is based on an incentive which works, and it is supported in principle by a blue-ribbon commission which spent a year and a half examining the entire VA health care program. I look forward to hearings on this measure and urge my colleagues to support it.

Mr. President, I ask unanimous consent that the bill, along with a technical description of its provisions, 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. 2029

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

SECTION 1. RETENTION OF THIRD PARTY REIMBURSEMENTS BY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) REIMBURSEMENT.—Section 1729(g) of title 38, United States Code, is amended—

(1) in paragraph (2), by inserting "and shall be available to the Secretary as provided in paragraphs (3) and (4)" after "the Fund";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) Of the total amount recovered or collected by a Department facility in a fiscal year and deposited in the Fund, there shall be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

"(i) the amount equal to the excess of that total amount over the amount obligated pursuant to paragraph (3) for the payment of expenses, costs, and charges allocable to that facility in connection with the recovery and collection of such total amount; or

"(ii) the amount equal to ½ of that total amount.

"(B) Amounts that remain unobligated at the end of the period of availability shall be covered into the Treasury as miscellaneous receipts.".

(b) CONFORMING AMENDMENT.—Paragraph (5) of such section (as redesignated by subsection (a)(2)) is amended—

(1) by inserting "(A)" after "minus"; and

(2) by inserting ", and (B) any part of such balance that remains available for obligation pursuant to paragraph (4)" after "paragraph (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 2, 1992, and shall apply with respect to amounts recovered or collected under section 1729(g) of title 38, United States Code, after September 30, 1991.

TECHNICAL DESCRIPTION OF LEGISLATION RELATING TO RETENTION OF MEDICAL CARE COST RECOVERY FUNDS BY VA MEDICAL CENTERS

This bill would amend section 1729(g) of title 38, United States Code, relating to recovery by the United States of the cost of certain care and services in VA health-care facilities, by adding a new paragraph which would permit VA medical centers to retain, for the provision of direct patient care, a portion of the proceeds recovered from commercial insurance companies. Specifically, the bill would provide that, of the total amount recovered or collected by a VA medical facility in a fiscal year, there would be available for the provision of direct patient care at that facility for the following three fiscal years the lesser of—

The amount equal to the excess of that total amount over the amount obligated for the payment of the expenses of collection allocable to that facility; or

The amount equal to ½ of that total amount.

For example, if a facility collected $10 million in a fiscal year and had $3 million in allocable costs, the amount available for provision of direct patient care would be the lesser of—$7 million (total less collection costs); or $5 million (one-half total collections), so that the amount available would be $5 million.

On the other hand, if a facility collected 3 million in a fiscal year and had $2 million in allocable collection costs, the amount available would be the lesser of—$1 million (total less collection costs); or $1.5 million (one-half total collections), so that the amount available would be $1 million.

The bill would be effective with respect to fiscal year 1992 collections.

By Mr. COHEN:

S. 2030. A bill to amend the Securities Exchange Act of 1934 to provide for confidentiality in the granting and voting of proxies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONFIDENTIAL PROXY VOTING

• Mr. COHEN. Mr. President, today I am introducing proxy reform legislation, which is designed to enhance shareholder participation in the corporate governance process. The current Federal regulatory program places almost insurmountable obstacles in the path of effective shareholder participation in corporate governance, and the result is a disturbing lack of accountability on the part of corporate management to the shareholders of the corporation.

Reform of the proxy process is required to strengthen shareholder democracy. My clear preference would be for the Securities and Exchange Commission [SEC] to pursue needed reforms in the proxy process under the broad authority Congress has granted the Commission to protect the interests of shareholders and to facilitate shareholder participation in corporate governance. Unfortunately, recent events have convinced me that the SEC cannot be relied upon to vigorously pursue such reforms and, therefore, that congressional action is required.

I have a longstanding interest in this issue. In 1986, the Governmental Affairs Subcommittee on Oversight of Government Management, under my chairmanship, held hearings and issued recommendations on the participation of institutional investors in corporate governance issues. The subcommittee found that pension funds, major shareholders in American corporations, were not engaging in a careful evaluation of those corporate governance issues which can affect the rights of shareholders and the value of their investments. In a subsequent report, the subcommittee made a number of recommendations aimed at encouraging institutional investors to become better informed and more active shareholders.

Earlier this year, the Oversight Subcommittee held a hearing examining whether the Federal regulatory program unfairly restricts shareholder proxy proposals. It was clear from the testimony presented at the hearing that the current SEC regulations restrict the ability of shareholders to hole corporate management accountable for their actions, and that there is a need to reform the proxy process to enable more effective shareholder involvement in matters of corporate governance.

I was encouraged by the testimony presented at the hearing by Linda C. Quinn, Director of the SEC's Division of Corporate Finance. Ms. Quinn emphasized the Commission's dedication to enhancing the voting rights of shareholders, reiterated the Commission's commitment to an ongoing review of the shareholder voting process, and indicated that the Commission would be coming forward in the near future with a proposal dealing with these issues.

I was further encouraged by the SEC's subsequent publication in June of a proposed rule containing several amendments to its proxy rules that are designed to facilitate shareholder com-

munication with each other and with management in furtherance of the goal of informed proxy voting. The proposed rule has been characterized by SEC Chairman Richard Breeden and others as mild and was the first step in what was expected to be a broader revamping of the proxy process.

Regrettably, it appears that these mild reforms have been torpedoed by pressure exerted by corporate managements. In a campaign orchestrated by the Business Roundtable, the Nation's largest corporations have generated large numbers of letters in opposition to the proposed rule and have sought the assistance of administration officials in an effort to kill the proposed reforms. As a result of this campaign, plans to finalize the rule will apparently be delayed until next year, the proposals themselves will be redrafted and may be weakened, and any possibility of broader reforms may now be dead. Yesterday, the SEC formally announced that it will be revising the proposal and seeking further public comment before going forward with a final rule.

It has been my view for some time that reform of the shareholder voting process is necessary, but it was also my view that such reforms could and should be made by the SEC through the regulatory process. The Securities Exchange Act grants the SEC broad authority to promulgate rules and regulations which are necessary in the public interest and for the protection of shareholders. However, I am now convinced that congressional action in this area is necessary given the apparent failure of the SEC to successfully pursue even the most modest reforms designed to enhance shareholder democracy.

The legislation I am introducing today would provide for greater shareholder access to the proxy process by means of direct shareholder nomination of directors and more equitable treatment of shareholder proposals in the proxy statement. To ensure the integrity of the proxy voting process, the bill would require the Securities and Exchange Commission to issue regulations providing for confidential voting and tabulation of votes by an independent third party.

The bill would also encourage the SEC to expand the type of shareholder proposals relating to executive compensation for the corporate managers and board of directors that would be considered proper for shareholder action and, therefore, must be included in the proxy statement. The authority to define the types of proposals that will be required to be treated as proper subjects would remain with the SEC.

Shareholders have a legitimate interest in becoming more active participants in the proxy process. They are entitled to receive information on and have a voice in important decisions which affect them as stockholders and owners of a corporation. Moreover, as the beneficial owners of a corporation, they should also have reasonable opportunities to present to fellow shareholders and to management their own proposals and views on issues which are of concern to them.

The current Federal regulatory program blocks shareholders from effectively participating in the proxy process and, as a result, does not adequately protect the interests of shareholders. The reforms I am proposing are needed to remove obstacles to shareholder action and to restore accountability to the corporate governance process.

I urge my colleagues to join me in supporting this legislation which will enhance shareholder participation in the corporate governance process and corporate accountability.•

By Mr. HATFIELD (for himself and Mr. BINGAMAN):

S. 2031. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Labor and Human Resources.

ALBERT EINSTEIN TEACHER FELLOWSHIP ACT OF 1991

• Mr. HATFIELD. Mr. President, I rise today to pay tribute to a very special member of my staff—Dr. June Yamashita. I have had the privilege of June's talents as part of my legislative team for the past year, and before she leaves next month to pursue other endeavors, I want to recognize her unique wisdom, enthusiasm, and perspective as both an educator and a special friend of the young.

June and I met almost a year ago after she was selected as one of four secondary schoolteachers to serve as an Albert Einstein congressional fellow. Two of these fellows were assigned to the Senate and two to the House, each to work on a personal or committee staff in the 102d Congress. Immediately, June and I shared two common bonds, our attendance at Stanford University and a kinship on the importance of mathematics and science education. I asked her to join my staff to work with me on new initiatives in education reform.

June arrived on Capitol Hill after 29 years in the classroom. From her experiences as a public high school mathematics teacher in Hawaii, she introduced fresh perspectives to me and my staff on how educational legislative proposals would actually work in a school system like her own. She spent a great deal of her initial time in Washington reading the myriad of reports on mathematics and science education, and attending workshops and conferences. Through these opportunities, she not only gathered an abundance of information from practitioners in the field, but she spread the word that there was both an interest and a commitment in the Congress to improve the Federal investment in this critical area.

In addition to the resource she has been to me, June has been an innovative and creative influence to those outside my office. She has crafted legislation, much of it well on its way to enactment, and in so doing, she has worked closely with members of my mathematics and science education "working group" to incorporate and present new ideas in the Congress. She helped me to assess basic needs within this community and ultimately, to direct Federal attention in the most effective manner possible.

Mr. President, I sponsored the initial Albert Einstein congressional fellowship program with complete confidence that the contributions our Nation's teachers could bring to the political process would be of tremendous benefit to our schools. June has brought this vision to life and while I will miss her daily presence in my office, I know that the legacy she leaves is an extremely positive one for teachers everywhere.

I ask unanimous consent that recent letters I have received from the Triangle Coalition for Science and Technology Education and the National Association of State Universities and Land-Grant Colleges in reference to June's accomplishments be included in the RECORD.

Furthermore, as a tribute to all of the fellows who have served this past year, and particularly in recognition of the splendid service of Dr. June Yamashita, I am today introducing legislation to permanently establish the Albert Einstein congressional fellowship program at the Department of Education. I ask unanimous consent that the text of the legislation be printed in the RECORD following my remarks.

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

S. 2031

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 "Albert Einstein Teacher Fellowship Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a need exists to facilitate understanding, communication, and cooperation between the Federal Government and the science education community;

(2) the science education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers;

(3) secondary school science and mathematics teachers can provide insight into effective education programs; and

(4) a pilot program has confirmed the effectiveness of outstanding secondary school science and mathematics teachers serving in

professional staff capacities in the Senate and the House of Representatives.

SEC. 3. PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this Act to establish a national fellowship program for outstanding science and mathematics teachers.

(b) DESIGNATION.—A recipient of a fellowship under this Act shall be known as an "Albert Einstein Fellow".

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "contractor" means a nonprofit educational organization selected by the Secretary to administer the fellowship program assisted under this part;

(2) the term "outstanding science or mathematics teachers" means secondary school teachers who—

(A) are State or national winners of the Presidential Awards for Excellence in Science and Mathematics Teaching;

(B) have participated in the Woodrow Wilson Fellowship Program; or

(C) have been recipients of other similar recognition programs of a national scope;

(3) the term "secondary school" has the meaning provided by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Education.

SEC. 5. FELLOWSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary is authorized to establish the Albert Einstein Teacher Fellowship Program which shall provide outstanding secondary school science or mathematics teachers with fellowships in accordance with the provisions of this Act in each fiscal year.

(2) NUMBER OF FELLOWSHIPS.—The Secretary shall provide—

(A) 2 outstanding secondary school science or mathematic teachers with fellowships in the House of Representatives;

(B) 2 such teachers with fellowships in the Senate; and

(C) 1 such teacher with a fellowship in the following Federal agencies:

(i) The Department of Education.

(ii) The Department of Energy.

(iii) The National Institutes of Health.

(iv) The National Science Foundation.

(v) The Office of Science and Technology Policy.

(3) TERM OF FELLOWSHIPS.—Fellowships under this Act shall be awarded for a period of 1 year, beginning August 1 of any fiscal year and ending on July 31 of the succeeding fiscal year.

(b) PROGRAM ADMINISTRATION.—

(1) CONTRACT.—The Secretary is authorized to issue a contract to a qualified nonprofit educational organization (hereafter in this Act referred to as the "contractor") to administer the Albert Einstein Teacher Fellowship Program.

(2) DUTIES.—The contractor shall—

(A) develop and administer an application process for the awarding of fellowships under this Act;

(B) publicize the fellowship program in appropriate professional publications and directly invite applications from teachers listed in the directories of the Presidential Awardees, the Woodrow Wilson Fellows, and other national recognition programs;

(C) develop and conduct an initial screening process of applicants for the Albert Einstein Fellowship Program to narrow the pool of such applicants to 9 outstanding secondary school science teachers and 9 outstanding secondary school mathematics teachers;

(D) develop and conduct the process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(E) conduct, or enter into a contract with another qualified agency for the conduct of, a program of orientation for the fellowship recipients under this Act;

(F) establish and conduct a reporting and evaluation program for each year fellowships are awarded under this Act;

(G) submit an annual report and evaluation of the fellowship program assisted under this Act to the Secretary on August 31, 1993, and each year thereafter; and

(H) administer all disbursements of funds under this Act, including salaries and expenses incurred in conducting the selection process.

(c) USE OF FUNDS.—

(1) IN GENERAL.—The contractor shall only use funds under this Act for fellowship recipient salaries, Social Security contributions, and administrative expenses including information dissemination, direct mailing, advertising, direct staff costs for coordination and accounting services, and expenses of conducting the final selection interviews in Washington, D.C.

(2) SPECIAL RULE.—The contractor may seek funding from non-Federal sources to provide an orientation program for the Fellows and an account from which the Fellows may be reimbursed for moving, travel, and professional meetings expenses.

(d) SELECTION.—

(1) IN GENERAL.—The contractor shall invite the 18 semifinalists to Washington, D.C. to participate in interviews after the initial screening process described in subparagraph (C) of subsection (b)(2) is completed.

(2) FINAL SELECTION.—

(A) The final selections shall be made in accordance with paragraph (2) and announced prior to May 1 preceding each fellowship term.

(B) The contractor shall develop and conduct a process whereby final selections of fellowship recipients under this part are made as follows:

(i) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees shall select the 2 fellowship recipients who shall be assigned to the House of Representatives.

(ii) The President pro tempore of the Senate and the Minority Leader of the Senate, or their designees shall select the 2 fellowship recipients who will be assigned to the Senate.

(iii) The Secretary of Education, the Secretary of Energy, the Director of the National Institutes of Health, the Director of the National Science Foundation, and the Assistant to the President of the Office of Science and Technology Policy, or their designees shall each select 1 fellowship recipient who shall be assigned within the department, institute, or office that such individual represents.

(e) FINAL PLACEMENT.—

(1) IN GENERAL.—Each individual selected to receive a fellowship pursuant to subsection (d) shall interview in the various sections, offices, or divisions within the department, institute, or office in which such individual is to be placed to determine the best fellowship placement for such individual.

(2) DATE.—The final placement described in paragraph (1) shall take place in August of each fellowship term.

SEC. 6. FELLOWSHIPS.

(a) SALARY.—Each recipient of a fellowship under this Act shall be paid at a rate of pay that shall not exceed the minimum rate payable for a position under GS-13 of the General Schedule.

(b) DEDUCTIONS.—Notwithstanding any other provision of law, from the salary described in paragraph (1) no deductions shall be taken nor employee benefits extended beyond payroll deductions described in subtitle C of the Internal Revenue Code of 1986.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $500,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2000.

TRIANGLE/NSTA,
College Park, MD, November 22, 1991.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: We are pleased to have had a role in bringing June Yamashita to Washington, D.C. Her selection as an Einstein Congressional Fellow for '90-91 is a clear demonstration of the high quality of both the pool of candidates and the group finally selected. June made a wonderful contribution to the launching of the Einstein Congressional Fellows program.

She brought the skills and insight of a teacher, the imagination of a student, and the enthusiasm of a new arrival to D.C. and offered them for service on Capitol Hill. She achieved a great deal in a short time. Over and over she has demonstrated her talent for working with others and shared the sense of professionalism she brought from her teaching. We are also aware of the contribution she has made to your staff and to your efforts to lead in education reform legislation.

We are pleased with all these efforts but most of all that we can join you in heartfelt thanks for her love of education and her willingness to share so much of her self with our staff and those who follow her as Einstein fellows. I hope you will convey to her our appreciation for all she has done to make science education a more visible and vital part of the national agenda.

Sincerely,

JOHN M. FOWLER,
Executive Director.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES
Washington, DC, November 20, 1991.

Hon. MARK O. HATFIELD,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I have learned that Ms. June Yamashita will be concluding her work on your staff next month. In behalf of the National Association of State Universities and Land-Grant Colleges (NASULGC), I am writing to express our deep appreciation for her outstanding work this year in support of your efforts both to secure an appropriation for and to propose the reauthorization of Title XI ("Urban Community Service") of the Higher Education Act. June was always responsive to our recommendations, comments and questions, and she skillfully negotiated several differences of perspective among the urban higher education representatives with whom she worked. She has played a key role in ensuring that the attention of the Federal Government will be focused increasingly on the resources and skills of the nation's urban universities.

I found June personally to be a delight, and I will miss her as we continue our work together to ensure that Title XI remains a part of the reauthorized Higher Education Act next year. NASULGC's urban univer-

sities and I wish June the best of luck as she returns to her home in Hawaii.

Sincerely,

NEVIN C. BROWN,
Assistant Director for Urban Affairs.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. BOREN, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 509

At the request of Mr. HARKIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 509, a bill to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes.

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 846

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from Arkansas [Mr. BUMPERS] 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. 1123

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1123, a bill to improve the health care delivery system and ensure access to affordable quality health care through reduced liability costs and improved quality of care, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1423, supra.

S. 1533

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1533, a bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934.

S. 1622

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. ADAMS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1704

At the request of Mr. WALLOP, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1774

At the request of Mr. BRYAN, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Alabama [Mr. SHELBY], the Senator from Washington [Mr. GORTON], the Senator from Louisiana [Mr. BREAUX], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Florida [Mr. GRAHAM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Utah [Mr. HATCH], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. DIXON], the Senator from Hawaii [Mr. INOUYE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1774, a bill to establish a silver congressional commemorative medal for members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

S. 1810

At the request of Mr. DURENBERGER, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1810, a bill to amend title XVIII of the Social Security Act to provide for corrections with respect to the implementation of reform of payments to physicians under the Medicare Program, and for other purposes.

S. 1835

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1835, a bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to qualified beginning farmers and ranchers, and for other purposes.

S. 1863

At the request of Mr. LEVIN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1863, a bill to provide for the establishment of a program that shall facilitate, on a voluntary request basis, the reunion of birth parents and adopted individuals, birth siblings, or birth grandparents of adopted individuals, through a centralized computer network, and for other purposes.

S. 1872

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1872, a bill to provide for improvements in access and affordability of health insurance coverage through small employer health insurance reform, for improvements in the portability of health insurance, and for health care cost containment, and for other purposes.

S. 1894

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1894, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance during the implementation and phase-in of the North American Free-Trade Agreement, and for other purposes.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 1933

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1933, a bill to amend titles VII and VIII of the Public Health Service Act to reauthorize and extend programs under such titles, and for other purposes.

S. 1962

At the request of Mr. ADAMS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 1962, a bill to amend the Civil Rights Act of 1991 to apply the act to certain workers, and for other purposes.

S. 1998

At the request of Mr. EXON, the name of the Senator from South Carolina

[Mr. HOLLINGS] was added as a cosponsor of S. 1998, a bill to adopt the Airline Consumer Protection and Competition Emergency Commission Act of 1991.

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week".

SENATE JOINT RESOLUTION 100

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 100, a joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week".

SENATE JOINT RESOLUTION 222

At the request of Mr. DASCHLE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

SENATE JOINT RESOLUTION 226

At the request of Mr. DODD, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 226, a joint resolution designating the week of January 4, 1992, through January 10, 1992, as "Braille Literacy Week".

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of the Congress that the President should recognize Ukraine's independence.

SENATE CONCURRENT RESOLUTION 78

At the request of Mr. ROBB, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 78, a concurrent resolution regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

SENATE RESOLUTION 227

At the request of Mr. PRESSLER, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION NO. 230—RELATING TO SUPPORT ON MACHINE TOOLS VRA

Mr. D'AMATO (for himself, Mr. KASTEN, Mr. RIEGLE, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. DANFORTH, Mr. DODD, Mr. FORD, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. HELMS, Mr. LEVIN, Mr. MCCONNELL, Mr. PRESSLER, Mr. STEVENS, Mr. INOUYE, Mr. LIEBERMAN, Mr. BYRD, Mr. LEAHY, Mr. GARN, Mr. SANFORD, Mr. JEFFORDS, Mr. SPECTER, Mr. KOHL, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 230

Resolved,

Whereas, the Machine Tool Industry is vital to our nation's national security and industrial competitiveness;

Whereas, no weapon or industrial product or manufacturing equipment can be made without using a machine tool;

Whereas, the United States Government signed five-year Voluntary Restraint Arrangements with Taiwan and Japan in 1986 in order to allow our machine tool industry to rebuild its competitiveness in order to continue to serve our nation's national security and economic competitiveness;

Whereas, arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development and new technology in general. The U.S. machine tool industry has used the VRA constructively, increasing investment by 78 percent and increasing productivity by 11.3 percent annually. And, simultaneously keeping price increases to the rate of inflation;

Whereas, the American machine tool industry has made some progress since the inception of the VRA's, but the progress has not been enough to bring the industry back from the devastation it suffered during the early 1980's at the hands of foreign targeters; and

Whereas, there still exists a dramatic disparity between the health of the U.S. machine tool industry and that of Japan and Taiwan. In the interest of fairness and vital national security, this industry must be allowed to continue their progress under the structure provided by Voluntary Restraint Arrangements: Now, therefore, be it

Resolved, That the United States Senate urges the President to renew the Voluntary Restraint Agreement with Taiwan and Japan for an additional five years in order to continue to protect U.S. national security and ensure industrial competitiveness.

• Mr. D'AMATO. Mr. President, 5 years ago when the White House negotiated voluntary agreements with Japan and Taiwan limiting imports of machine tools, the future of this old line, American industry brightened. Machine tools, used for punching, cutting, bending, and shearing sheetmetal, have played a crucial role in our industrial economy and national defense since the beginning of the century.

Then, hit by the recession of the early 1980's, years of unfair trading practices, America's machine tool industry lost ground to low cost imports. These factors, coupled with a cheap yen, gave the Japanese the opportunity to grab half the United States market for machine tools.

In 1986, citing the importance of the industry to our national defense, the Reagan administration acted to protect domestic machine tool producers and give them time to regroup by negotiating the 5-year voluntary restraint agreements [VRA's]. These VRA's expire December 31 of this year. Unless extended, the U.S. Government will effectively slam the door on an industry that has hustled and kept its promise to use the time wisely.

Solid and permanent gains have been made and the industry's ability to compete in the world market has increased dramatically. Arresting the invasion of foreign built machines allowed the industry to respond by substantially increasing its investments in modern facilities, new product research and development, and new technology in general.

New York-based Strippit, Inc., with annual sales exceeding $50 million and 400-plus employees, redesigned its entire computer-controlled machinery line. This same company now has a patent pending on a personal computer-based machine tool controller that will revolutionize the industry.

Another New York company, Hardinge Brothers, Inc., made substantial investments to modernize its plant and improve product quality. Robert E. Agan, President and CEO of Hardinge, recently testified before the House Ways and Means Committee that his company's emphasis on quality products has evolved into a multi-million dollar quality commitment program. Elaborating on the program, Mr. Agan said, "We have aggressively competed for the Malcolm Baldridge National Quality Award for manufacturing excellence, finishing in the top 22 companies in the country—a tribute to the effort we have undertaken. Without the VRA's, Hardinge may not have had the resources to commit to such a program."

And Strippit, Hardinge, and the rest of the U.S. machine tool producers played a vital role in the success of our military operation in Desert Storm. U.S. machine tool technology made possible such sophisticated U.S. weapon systems as the Patriot missile system, stealth bomber, and the Bradley fighting vehicle. Clearly, our national security would be gravely impaired if we had to depend on foreign sources for our critical industries.

The 70,000-strong skilled work force is committed to achieving manufacturing superiority. Management and labor have learned the lesson that being competitive requires constant improvements in technology and in the quality of production.

America's machine tool industry was not decimated overnight; it cannot be restored to full competitiveness overnight either. More time is needed to complete the industry's return to health. Certainly, the current recession that has lasted longer than anyone anticipated has not helped.

Extending the VRA's another 5 years makes sense. Let's not jeopardize the jobs of tens of thousands of skilled workers, threaten our national security and risk endangering an entire industry now that its recovery has begun.

The machine tool industry and America deserve better. •

SENATE RESOLUTION 231—URGING THE PRESIDENT TO SUBMIT A PROPOSAL TO REFORM THE HEALTH CARE SYSTEM OF THE UNITED STATES

Mr. SIMON submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 231

Whereas the United States currently spends more than $700 billion a year on health care services;

Whereas the United States spends about 13 percent of its Gross National Product on health care services, compared to an average of 8 percent for other industrialized nations;

Whereas the Administration projects that if current trends continue, health care spending will reach 16 percent of Gross National Product by the year 2000 and 37 percent of Gross National Product by the year 2030;

Whereas health care spending continues to increase by more than 10 percent each year;

Whereas spending for health care absorbed 15.3 percent of Federal outlays in 1990 and 11.4 percent of state and local outlays in 1990;

Whereas 37 million indiviudals in the United States, 13 percent of the total population, are not covered by health insurance;

Whereas the United States, as compared to other industrialized nations, currently ranks 18th in life expectancy, 22nd in infant mortality and 26th in low birthweight, an indication that a child will suffer illnesses throughout his or her life;

Whereas the United States has the highest administrative cost of an health care system in the industrialized world;

Whereas the successful overhaul of our health care system must include the participation and cooperation of providers of health care services, business, labor, consumer organizations, senior citizens' groups, and both major political parties;

Whereas fundamental changes to our health care system will require the commitment of Presidential leadership;

Whereas the President has yet to propose any board changes for our health care system: Now, therefore, be it:

Resolved, That it is the sense of the Senate that the President should submit to the 102nd Congress a proposal for reforming the health care system of the United States.

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATIONS ACT, FISCAL YEAR 1991

BYRD AMENDMENT NO. 1391

MR. BYRD proposed an amendment to the joint resolution (H.J. Res. 157) making technical corrections and correcting enrollment errors in certain acts making appropriations for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 24, strike lines 1 through 8, and insert in lieu thereof:

SEC. 202. Notwithstanding any other provision of this joint resolution, funds in this joint resolution, other than those made available by transfer, are available for obligation only to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

JOHNSTON (AND GORTON) AMENDMENT NO. 1392

Mr. BYRD (for Mr. JOHNSTON, for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. Upon the enactment of a provision of law authorizing the Architect of the Capitol to accept donations for the benefit of the Botanic Garden, not more than $2,000,000 of the amounts accepted pursuant to such authorization shall be available for obligation by the Architect for preparation of working drawings, specifications, and cost estimates for renovation of the Conservatory of the Botanic Garden."

LEAHY (AND OTHERS) AMENDMENT NO. 1393

Mr. LEAHY (for himself, Mr. KASTEN, Mr. KOHL, Mr. HARKIN, Mr. DURENBERGER, Mr. JEFFORDS, Mr. WELLSTONE, Mr. D'AMATO, Mr. WOFFORD, and Mr. DASCHLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the committee substitute, add the following new title:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the

supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to

sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

LEAHY AMENDMENT NO. 1394

Mr. LEAHY proposed an amendment No. 1393 proposed by him (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

In the pending amendment, strike all after section 301, and add the following:

TITLE III—DAIRY PRICE SUPPORT AND STABILIZATION PROGRAM

SEC. 301. FINDINGS.

Congress finds that—

(1) milk and dairy products are basic foods and as a valuable part of the human diet a primary source of required nutrients, such as calcium;

(2) the production of milk and dairy products plays a significant role in the economy of the United States, in that—

(A) milk and dairy products are consumed by millions of people in the United States every day; and

(B) the production of milk and dairy products involves approximately 200,000 dairy farmers and requires substantial handling, processing, and marketing resources;

(3) dairy farmers have a relatively limited ability to protect themselves from price risk in that—

(A) the commodity they produce is not easily storable;

(B) they are restricted in their access to forward pricing or hedging; and

(C) dairy farming is so specialized that they cannot mitigate price risk by diversifying the mix of commodities they produce;

(4) unstable farm prices are detrimental to the Nation's consumers of milk because processors, in order to manage their risk, will increase margins above levels expected with stable prices;

(5) current dairy program policies, which do not include an inventory management component, have failed to prevent the producer market price for milk from collapsing in 1990 and in 1991;

(6) the all-milk price is expected to be less than the cost of production, subjecting dairy farmers to financial stress not experienced in decades;

(7) without further action, producer milk prices in future years will continue to be unstable, making it difficult to maintain an economically healthy dairy sector;

(8) the measures resulting from the amendments made by this title, including the surplus reduction program, are needed to—

(A) ensure consumers of a reliable and adequate supply of pure and wholesome milk and dairy products at reasonable prices;

(B) respond adequately to current and anticipated future dairy supply and demand problems; and

(C) ensure a level of farm income for dairy producers adequate to maintain productive capacity sufficient to meet the anticipated future needs; and

(9) the measures resulting from the amendments made by this title should avoid any increase in net Federal outlays in the milk price support program.

SEC. 302. POLICY AND PURPOSE.

(a) IN GENERAL.—It is declared to be the policy of Congress that it is in the public interest to—

(1) balance milk production and consumption in order to improve and stabilize farm income and limit Government expenditures;

(2) reduce undesirable fluctuations in supplies and prices of milk and stabilize the price of milk at fair and reasonable levels to protect the interests of consumers and producers; and

(3) facilitate orderly marketing conditions for milk and dairy products to enable dairy farmers in the United States to respond adequately to the needs of consumers.

(b) PROTECTION OF CONSUMERS.—It is the sense of Congress that the authorities provided by this title and the amendments made by this title shall be used to ensure the production of pure and wholesome milk and dairy products at the level required to meet the needs of consumers in the United States.

SEC. 303. PRICE SUPPORT OPERATIONS; SURPLUS REDUCTION PROGRAM.

(a) PRICE SUPPORT.—Subsection (b) of section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e(b)) is amended to read as follows:

"(b) RATE.—

"(1) 1991.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the price of milk shall be supported at a rate of not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(2) 1992 THROUGH 1995.—During the period beginning on January 1, 1992, and ending on December 31, 1995, the price of milk shall be supported at a rate of not less than $11.10 per hundredweight for milk containing 3.67 percent milkfat. The Secretary may increase the rate above the minimum rate established in this paragraph.".

(b) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—Subsection (e) of such Act is amended to read as follows:

"(e) RECOURSE LOANS FOR PROCESSED MILK PRODUCTS.—

"(1) IN GENERAL.—Beginning on January 1, 1993, if the Secretary determines that operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices, the Secretary may make available to processors of milk a recourse loan on products of milk (butter, cheese, and nonfat dry milk).

"(2) RATE.—The Secretary shall offer loans on the products at a rate that will enable plants of average efficiency to pay producers, on average, a price that is at least 95 percent but not more than 100 percent of the simple average price received by producers for manufacturing grade milk containing 3.67 percent milkfat for the immediately preceding 5 years, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

"(3) TERMS.—Loans shall be made under this section only in the first 5 months of the calendar year and shall mature at the earlier of—

"(A) the end of 6 months; or

"(B) the end of the fiscal year.

"(4) ASSESSMENT.—

"(A) IN GENERAL.—No later than December 1, 1992, the Secretary shall assess the extent to which the operation of a recourse loan program, made available to the processors of the products of milk, will improve the performance and functioning of dairy markets.

"(B) EFFECT ON ORDERLY MARKETING.—The Secretary shall consider the extent to which the operation of a recourse loan program will improve the orderly marketing of dairy products and the stability of dairy product prices within a marketing year.

"(C) CONSULTATION.—In conducting the assessment and as soon as possible after the assessment is completed, the Secretary shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and, as determined by the Secretary, appropriate representatives from the dairy industry.".

(c) SURPLUS REDUCTION PROGRAM.—Subsection (g) of section 204 of such Act is amended to read as follows:

"(g) SURPLUS REDUCTION AND PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall enter into contracts in each of the 1992 through 1995 calendar years with producers in the United States to reduce the marketings of milk for commercial use to ensure that annual net removals by the Commodity Credit Corporation do not exceed 4.5 billion pounds (milk equivalent, total milk solids basis).

"(2) NATIONAL REDUCTION IN MILK MARKETINGS.—

"(A) ANNUAL DETERMINATION.—Not later than November 15 of each of the calendar years 1991 through 1994, the Secretary shall determine the national reduction in milk marketings necessary in the following calendar year to limit net removals by the Commodity Credit Corporation in the year to a level of not more than 4.5 billion pounds (milk equivalent, total milk solids basis).

"(B) CRITERIA.—In making the reduction determination required under subparagraph (A), the Secretary shall—

"(i) use the rate of price support that will be effective for the calendar year subsequent to the year in which the determination is made under this section; and

"(ii) assume there will be no new entrants during that calendar year in the surplus reduction and prevention program established under this subsection.

"(3) REGIONAL REDUCTION IN MILK MARKETINGS.—

"(A) IN GENERAL.—The Secretary shall ensure that participation in the surplus reduction and prevention program shall be proportionately distributed, based on the quantity of milk produced, among the regions identified in subparagraph (B).

"(B) DEFINITION OF REGIONS.—For purposes of this subsection, the United States shall be divided into seven geographic regions as follows:

"(i) California, Oregon, and Washington.

"(ii) Arizona, Arkansas, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

"(iii) Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

"(iv) Wisconsin.

"(v) Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"(vi) Delaware, Indiana, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, and West Virginia.

"(vii) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"(C) REGIONAL MARKETING PERCENTAGE.—Not later than November 15 of each of the

calendar years 1991 through 1994, the Secretary shall determine a regional marketing percentage for each region that is equal to the ratio of—

"(i) the total quantity of milk marketed in the region in the 12 months prior to the determination; to

"(ii) the total quantity of milk marketed in the United States in the 12 months prior to the determination.

"(D) REGIONAL ALLOCATION.—To the extent practicable (taking into consideration the regional supply and demand for fluid milk), the Secretary shall determine the total reduction in the quantity of milk marketed for a region under the surplus reduction and prevention program to be equal to the product obtained by multiplying—

"(i) the national reduction in milk marketings, as determined under paragraph (2); by

"(ii) the regional marketing percentage for that region, as determined under subparagraph (C).

"(4) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall provide cash payments from the Commodity Credit Corporation to producers who enter into surplus reduction contracts to reduce the quantity of milk the producers market for commercial use during the relevant time period.

"(B) RATE OF PAYMENTS.—In determining the amount to be paid to producers under the contracts, the Secretary may offer payments to, or accept bids from, producers at a level that is necessary to achieve the national and regional reductions in milk marketings required under this subsection.

"(C) PERIOD OF CONTRACT.—In those cases in which contracts are entered into, the Secretary shall offer to enter into contracts in which a participant shall reduce the quantity of milk marketed by the participant over a period of 24 to 36 months, as determined by the Secretary. The Secretary may offer contracts for a shorter period to permit the dairy industry to adjust to unforeseen changes in factors affecting milk production, prices, and the demand for milk products, as determined by the Secretary. In no case shall contracts be for a period of less than 12 months.

"(D) ANNUAL LEVEL OF REDUCTION.—For each year of a contract, the level of reduction in the quantity of milk marketed shall be equal to the product obtained by multiplying—

"(i) not less than 5 percent, nor more than 25 percent; by

"(ii) the producer's relevant milk marketing history for that contract year, as determined pursuant to subparagraph (E).

"(E) MILK MARKETING HISTORY.—For purposes of surplus reduction contracts entered into under this subsection, a producer's milk marketing history shall be equal to—

"(i) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1992, the quantity of milk marketed by a producer during 1991;

"(ii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1993, the average quantity of milk that is marketed and considered marketed by the producer during 1991 and 1992; and

"(iii) for a producer entering into a surplus reduction contract for reduction beginning in calendar year 1994 or 1995, the average quantity of milk that is marketed and considered marketed by the producer during the previous 3 years.

"(F) ENROLLMENT PERIOD.—

"(i) FREQUENCY OF ENROLLMENT PERIODS.—The Secretary shall offer to enter into surplus reduction contracts on at least three occasions during 1992, and on as many occasions during 1993 through 1995 as the Secretary determines necessary.

"(ii) INITIAL PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(G) PAYMENTS TO PARTICIPANTS.—

"(i) TIMING.—The Secretary shall make conditional whole or partial payments to participants in the surplus reduction program on at least a quarterly basis, or more frequently at the option of the Secretary.

"(ii) ANNUAL SETTLEMENT PAYMENT.—If necessary, the Secretary shall make an annual settlement payment at the end of each year of the contract period, based on the total reduction in the quantity of milk marketings by the producer during the year.

"(iii) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus reduction program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(H) FUNDING.—The Secretary shall make payments to participants in the surplus reduction program from funds of the Commodity Credit Corporation.

"(I) SEASONAL STABILITY.—The Secretary shall, to the maximum extent practicable and consistent with the other obligations and objectives of this section, administer the surplus reduction program in a manner that will reduce the seasonal fluctuation in the supply of milk produced in the United States.

"(J) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus reduction program are met, as determined by the Secretary.

"(5) SURPLUS PREVENTION CONTRACTS.—

"(A) IN GENERAL.—Beginning on January 1, 1992, the Secretary shall offer to enter into contracts with producers not to increase the level of their marketings of milk from the immediately preceding year, as determined in subparagraph (D).

"(B) REDUCTION IN PRICE RECEIVED.—Any producer that participates in the surplus prevention program shall not be subject to the reduction in price received under subsection (h) on milk marketed during the term of the contract.

"(C) PERIOD OF CONTRACT.—The Secretary shall offer to enter into contracts in which a participant shall agree not to exceed the quantity of milk marketed by the participant over a period of 12 months.

"(D) ANNUAL LEVEL OF MARKETINGS.—For each year of a surplus prevention contract, the level of milk marketed by the participant shall not exceed the quantity of milk marketed and considered marketed in the year immediately preceding the term of the contract.

"(E) ENROLLMENT PERIOD.—The Secretary shall allow producers to enroll in the surplus reduction program for an initial period of at least 30 days prior to the beginning of the program. Subsequent enrollment periods shall be of such duration as is determined by the Secretary.

"(F) DIVERSION PROGRAM ADJUSTMENT.—For the purposes of contracts entered into under this paragraph, the Secretary may allow a producer in a particular region to exceed the contracted level of marketings of the producer if the Secretary determines that, in the absence of such an adjustment, the surplus reduction program would cause a disproportionate disruption to the economy of the region, including the supply of fluid milk.

"(G) OTHER TERMS.—Each contract may include such other terms and conditions as are necessary to ensure that the goals and objectives of the surplus prevention program are met, as determined by the Secretary.

"(6) CONSIDERED MARKETED.—For purposes of calculating a marketing history under paragraphs (4) and (5), the producer may receive an allowance for amounts considered marketed in previous years only to the extent that for a year the producer enters into a contract under paragraph (4). The quantity of milk considered marketed for the year shall equal the quantity of the contracted reduction for the year, except that there shall be no allowance made under this paragraph for quantities considered marketed if the quantity actually marketed in the year exceeded the quantity permitted by the year's contract.

"(7) RECORDS.—

"(A) MARKETING HISTORY.—Any producer of milk who seeks to enter into a contract for payments under this subsection shall provide the Secretary with evidence of the quantity of milk marketed by the producer in previous years to establish the producer's marketing history, as the Secretary considers necessary and appropriate.

"(B) OTHER RECORDS AND REPORTS.—Each producer who enters into a contract with the Secretary to reduce marketings under this subsection shall keep such records and make such reports as the Secretary determines necessary to carry out this subsection.

"(8) MODIFICATION OF CONTRACTS.—

"(A) AUTHORITY.—Subject to subparagraph (B), the Secretary may, in accordance with such rules or procedures as are prescribed by the Secretary, offer to modify contracts entered into under this subsection.

"(B) DETERMINATION.—Prior to a modification under subparagraph (A), the Secretary shall determine that, in the absence of the modification, net removals by the Commodity Credit Corporation would fall excessively below 4.5 billion pounds (milk equivalent, total milk solid basis) during the year.

"(9) ASSIGNMENT OF CONTRACTS.—A producer may, with the approval of the Secretary, assign a contract entered into under this paragraph only if—

"(A) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(B) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(C) a copy of the writing is submitted to the Secretary before the transfer occurs.

"(10) DECEASED PRODUCERS.—A contract entered into under this subsection by a producer who by reason of death cannot perform or assign the contract may be performed or assigned, in accordance with paragraph (9), by the estate of the producer.

"(11) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary shall ensure compliance by producers with the contracted level of reductions in the quantity of milk marketed, including contracts for a term in excess of 1 year. The Secretary shall ensure compliance with surplus reduction

contracts on at least a quarterly basis, consistent with payments to producers under paragraph (4)(G)(i).

"(B) INITIAL ENROLLMENT.—During the initial enrollment period specified in paragraph (4)(F), the Secretary shall, at the option of the participant, not require full compliance with the terms and conditions of the surplus reduction contract until 45 days after entering into the contract. Full compliance with the terms and conditions of the contract shall be required on a quarterly basis, as provided in this paragraph.

"(C) VIOLATIONS OF SURPLUS REDUCTION CONTRACTS.—

"(i) REFUNDS.—If a producer violates a contract entered into under paragraph (4), the Secretary shall, as considered appropriate, require that all payments made under the contract be refunded by the producer, with interest at the rate equal, to the extent practicable, to the cost to the Commodity Credit Corporation of its borrowings from the United States Treasury for the relevant time period. The refund shall not relieve the producer from the obligations of the contract.

"(ii) PENALTIES.—A producer who enters into a contract under paragraph (4) shall be liable to the Secretary for marketing penalties, in addition to other remedies available under this section, if the producer—

"(I) fails to make a required reduction in milk marketings;

"(II) retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this subsection;

"(III) makes a false statement in a bid submitted under paragraph (4) as to the producer's milk marketing history;

"(IV) makes a false statement as to the producer's reduction in milk marketings required under the contract; or

"(V) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTIES.—The amount of a marketing penalty shall be an amount determined by the Secretary that is the higher of—

"(I) $5,000 for the violation; or

"(II) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may waive penalties under clause (iii) for a violation that is the result of inadvertent errors in reduction of marketings, as determined by the Secretary, except that the amount of a waiver may not exceed 5 percent of the quantity of the reduction in annual milk marketings by the producer provided for under the contract.

"(D) VIOLATIONS OF SURPLUS PREVENTION CONTRACTS.—

"(i) PENALTY.—If a producer violates a contract entered into under paragraph (5), the Secretary shall, as considered appropriate, require that the producer pay a penalty to the Commodity Credit Corporation for the relevant time period.

"(ii) VIOLATION.—The Secretary shall find a producer in violation of a contract if the producer—

"(I) exceeds the level of milk marketings provided in the contract;

"(II) makes a false statement as to the producer's level of milk marketings required under the contract; or

"(III) fails to meet such other terms and conditions of the contract, as the Secretary considers appropriate.

"(iii) LEVEL OF PENALTY.—The level of the penalty authorized under clause (i) shall equal the sum of—

"(I) the product obtained by multiplying—

"(aa) the amount of the reductions in price received by the producer that would have applied under subsection (h) had that producer not participated in the surplus prevention program during the year; by

"(bb) the total quantity of milk marketed by the producer in that year; and

"(II) an amount determined by the Secretary that is the higher of—

"(aa) $5,000 for the violation; or

"(bb) the quantity of milk involved in the violation multiplied by the current support price, as determined under this section.

"(iv) EXCEPTION.—The Secretary may reduce any penalties under clause (iii)(II) by such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(12) EFFECT ON THE LIVESTOCK INDUSTRY.—In order to minimize the adverse effect of the surplus reduction program on beef, pork, and poultry producers in the United States, the Secretary shall vary the beginning and ending dates of surplus reduction contracts in a region so that the slaughter of dairy animals as a result of the surplus reduction program will occur on a random basis.

"(13) DAIRY COW SLAUGHTER.—

"(A) LIMITATION.—The Secretary shall, to the maximum extent practicable, limit the number of dairy cows slaughtered during each of the first 12 months of the surplus reduction program to a quantity of not more than the sum of—

"(i) the average number of beef and dairy cows slaughtered during the corresponding month in the 1990 and 1991 calendar years; and

"(ii) 20,000 dairy cows.

"(B) SUBSEQUENT MONTHS.—The Secretary may limit the number of dairy cows slaughtered after the first 12 months of the surplus reduction program at the level specified in subparagraph (A), as determined necessary by the Secretary.

"(C) MONITORING.—During the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary shall monitor and report to Congress every 2 weeks on the number of beef and dairy cows slaughtered in the United States.

"(D) LIMITS ON NEW CONTRACTS.—

"(i) MONTHLY DETERMINATION.—The Secretary shall make a determination, during each of the first 12 months of the surplus reduction program, if—

"(I) the number of dairy cows slaughtered for the month is in excess of the level specified in subparagraph (A); and

"(II) the excess dairy cow slaughter is a direct result of and solely caused by the surplus reduction program.

"(ii) IMPACT ON NEW CONTRACTS.—If the Secretary makes a positive determination in any month under subclauses (I) and (II) of clause (i), the Secretary shall not enter into additional surplus reduction contracts under paragraph (4) during the immediately subsequent month, in order to review the process and mechanism used to limit surplus reduction dairy cow slaughter to the quantities described under subparagraph (A).

"(14) USE OF GOVERNMENT RESOURCES.—In carrying out this subsection, the Secretary may, as the Secretary considers appropriate—

"(A) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

"(B) enter into agreements to use, on a reimbursable basis, the services of administrators of the Federal milk marketing orders and State milk marketing programs.".

(d) REDUCTION IN PRICE RECEIVED.—Subsection (h) of section 204 of such Act is amended to read as follows:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) SURPLUS REDUCTION CONTRACTS.—

"(A) IN GENERAL.—During the period beginning on January 1, 1992, and ending on September 30, 1998, the Secretary shall provide for a reduction in the price received on all milk marketed in the United States for commercial purposes by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g).

"(B) AMOUNT OF REDUCTION.—

"(A) 1992.—During fiscal year 1992, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal $161,000,000.

"(B) 1993 THROUGH 1998.—During each of the fiscal years 1993 through 1998, the Secretary shall establish the rate of the reduction under subparagraph (A) in the price received by producers at an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(i) the amount that is necessary to reimburse the Commodity Credit Corporation for all payments to producers who participate in the surplus reduction program established under subsection (g)(4) in such year; and

"(ii) the amount, in excess of the amount collected in the immediately preceding year, that is necessary to reimburse the Commodity Credit Corporation for payments to producers who participated in the surplus reduction program established under subsection (g)(4) in the immediately preceding year.

"(2) RECONCILIATION COMMITMENTS.—

"(A) 1991.—

"(i) AUTHORITY.—During the period beginning on January 1, 1991, and ending on December 31, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be 5 cents per hundredweight of milk marketed.

"(iii) REFUND.—The Secretary shall provide a refund of the entire reduction under clause (ii) in the price of milk received by a producer during calendar year 1991 if the producer provides evidence that the producer did not increase marketings in 1991 as compared to marketings by the producer in 1990.

"(B) 1992.—

"(i) AUTHORITY.—During the period beginning on January 1, 1992, and ending on September 30, 1992, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, that is equal to the sum of—

"(I) $161,000,000; and

"(II) an amount that is sufficient to compensate for refunds made under subparagraph (A)(iii) on the basis of marketings in 1991.

"(C) 1993 THROUGH 1995.—

"(i) AUTHORITY.—During the period beginning on October 1, 1992, and ending on September 30, 1995, the Secretary shall provide for a reduction in the price of milk received by producers that do not enter into surplus reduction or surplus prevention contracts under subsection (g) for all milk produced in the United States and marketed by those producers for commercial use during a contract year, in addition to any reduction in price required under paragraph (1).

"(ii) AMOUNT.—The amount of the reduction under clause (i) in the price received by producers shall be an amount, on a per hundredweight basis of milk marketed, so that total collections shall, to the extent practicable, equal—

"(I) $55,000,000 during fiscal year 1993;

"(II) $45,000,000 during fiscal year 1994; and

"(III) $85,000,000 during fiscal year 1995.

"(3) ASSESSMENT REFUND.—

"(A) EXCESS CCC PURCHASES.—During the period beginning on January 1, 1993, and ending on September 30, 1998, the Secretary shall provide a refund of the entire reduction in the price of milk received by a producer during a fiscal year under paragraph (1) if annual net removals by the Commodity Credit Corporation exceed 6.0 billion pounds (milk equivalent, total milk solids basis).

"(B) TIMING.—The refund to producers shall be made not later than March 1 of the calendar year immediately following the year in the which the annual net removals by the Commodity Credit Corporation exceed the quantity specified in subparagraph (A).

"(4) COLLECTION OF FUNDS.—The funds resulting from the application of any reduction in the price received by producers for milk under paragraphs (1) and (2) shall be collected and remitted to the Commodity Credit Corporation at such time and in such manner as are prescribed by the Secretary. The funds shall be remitted by any person that purchases milk from a producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, or other cases as determined by the Secretary, the funds shall be remitted directly to the Corporation by the producer.

"(5) MINIMUM PRICE PROVISIONS.—The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(e) DEFINITIONS.—

(1) IN GENERAL.—Section 204 of such Act is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) DEFINITIONS.—As used in this section:

"(1) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—The term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(2) NET REMOVALS.—The term 'net removals' means the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section, less sales under section 407 for unrestricted use.

"(3) UNITED STATES.—The term 'United States' means the 48 contiguous States in the continental United States.".

(2) ADMINISTRATION.—Section 204(d)(5) of such Act is amended by striking "(5) ADMINISTRATION.—" and all that follows through "In estimating" in subparagraph (B) and inserting "(5) ADMINISTRATION.—In estimating".

(f) CONFORMING AMENDMENTS.—Section 204(i) of such Act is amended by striking "subsection (g) or (h)" each place it appears and inserting "subsection (h)".

(g) PERIOD.—Section 204(l) of such Act (as redesignated by subsection (e)(1)(A) of this section) is amended by inserting after "this section" the following: ", other than as provided in subsection (h)(1),".

SEC. 304. STANDARDS OF IDENTITY FOR MILK.

Paragraph (H) of section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(H) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this paragraph and ending on December 31, 1995, a State milk marketing order (or other applicable State statute or regulation) that had a standard for solids not fat in milk, lowfat or skim, in effect on November 1, 1990, shall not be preempted by a Federal standard for fluid milk.".

SEC. 305. SENSE OF CONGRESS REGARDING PROVISION OF SURPLUS COMMODITIES TO THE SOVIET UNION.

It is the sense of Congress that the Secretary of Agriculture should make efforts to sell for export, or otherwise provide, to the Union of Soviet Socialist Republics and its former constituent republics any surplus commodities (including milk and products of milk) available from stocks acquired by the Commodity Credit Corporation.

SEC. 306. REGULATIONS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title.

SEC. 307. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date of the enactment of this Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 1395

Mr. KENNEDY (for himself, Mr. KERRY, Mr. SHELBY, Mr. DODD, Mr. SMITH, Mr. FORD, Mr. PELL and Mr. BYRD) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 13, and 21, strike out section 104 of the substitute and insert in lieu thereof the following:

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

LEAHY (AND OTHERS) AMENDMENT NO. 1396

Mr. LEAHY (for himself, Mr. KOHL, Mr. DASCHLE, Mr. WELLSTONE, Mr. WOFFORD, Mr. KERRY, and Mr. HARKIN), proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of the substitute, add the following new section:

SEC. . Section 17(f)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended by adding at the end the following new subparagraph:

"(F) During each of fiscal years 1992 through 1995, a State agency shall not redeem any food instrument for fluid milk presented by retail vendors under the program established by this section (or, in the case of a State that operates a home delivery or direct distribution system under the program, shall not pay or reimburse any distributor) in an amount in excess of the average farm milk price (the average price paid to producers for milk fluid uses) for the State for the previous month, plus 59 cents for a half gallon of milk or $1.06 for a gallon of milk, except that the Secretary, with respect to an Indian State agency, the State of Alaska, or any State agency (in compelling circumstances), may grant exemptions to retail stores from the application of the redemption limits contained in this paragraph if imposition of the limits is likely to cause hardships to participants in the program.".

REID AMENDMENT NO. 1397

Mr. BYRD (for Mr. REID) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

SEC. . From the funds made available for Land Acquisition of the U.S. Fish and Wildlife Service in the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act (PL 102-154), $965,000 is hereby appropriated by transfer to the Resource Management account of the U.S. Fish and Wildlife Service.

BREAUX AMENDMENT NO. 1398

Mr. BYRD (for Mr. BREAUX) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill insert the following:

The appropriation entitled "FISHING VESSEL OBLIGATIONS GUARANTEES" in Public Law 102-140 is amended by striking from the colon after the sum "$1,000,000" through to and including the sum "$10,000,000".

DECONCINI (AND OTHERS) AMENDMENT NO. 1399

Mr. BYRD (for Mr. DECONCINI), (for himself, Mr. SIMON, Mrs. KASSEBAUM, Mr. D'AMATO, and Mr. LEAHY) proposed

an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . RESTRICTIONS ON ASSISTANCE FOR KENYA.

(a) RESTRICTIONS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to establish political parties and organizations; and

(5) has implemented the principle of freedom of movement, including the right of all citizens of Kenya to leave and return to their country.

(b) PROHIBITION.—

(1) LIMITATION ON NEW PROJECT ASSISTANCE.—During fiscal year 1992, funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 that are provided for assistance to the Government of Kenya for new projects shall be made available only for new projects—

(A) that promote basic human needs, directly address poverty, enhance employment generation, and address environmental concerns; or

(B) to improve the performance of democratic institutions, or otherwise promote the objectives being sought in the certification required by subsection (a).

(2) CONGRESSIONAL NOTIFICATION.—During fiscal year 1992, none of the funds appropriated by this or any other Act to carry out the provisions of chapters 1 and 10 of the Foreign Assistance Act of 1961 shall be obligated unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(3) APPLICABILITY.—The provisions of paragraphs (1), and (2) of this subsection shall cease to apply 30 days after the certification described in subsection (a) is made to the Congress.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this joint resolution or any other provision of law under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

DECONCINI (AND OTHERS) AMENDMENT NO. 1400

Mr. BYRD (for Mr. DECONCINI) (for himself, Mr. D'AMATO, Mr. DODD, Mr. WALLOP, Mr. MOYNIHAN, Mr. RIEGLE, Mr. HATCH, Mr. BRADLEY, Ms. MIKULSKI, Mr. SIMON, Mr. HELMS, Mr. KASTEN, Mr. PRESSLER, Mr. KERRY, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. MACK, and Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of peoples to peaceful and democratic self-determination.

(8) As recognized in Article VII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

SPECTER (AND OTHERS) AMENDMENT NO. 1401

Mr. HATFIELD (for Mr. SPECTER) (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. HATFIELD, and Mr. RUDMAN) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, after line 21, insert the following:

SEC. 204. Notwithstanding the provisions of Section 728(a) of the Public Health Service Act, or any other provision of law, Federal loan insurance pursuant to subpart I of Part C of the Public Health Service Act may be granted for loans to new and previous borrowers. The fiscal year 1992 ceiling shall be $290,000,000, as set forth in H.R. 3839, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992.

THURMOND (AND HOLLINGS) AMENDMENT NO. 1402

Mr. HATFIELD (for Mr. THURMOND) (for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

SECTION . WAIVER OF CERTAIN RECOVERY REQUIREMENTS.

Section 2713(d) of the Public Health Service Act (42 U.S.C. 300aaa-12(d)) is amended by striking "(a)(2)" and inserting "(a)".

SEC. . USE BY STATES OF FORFEITED REAL PROPERTY FOR STATE PARKS OR RELATED PURPOSES.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended—

(1) in paragraph (1)(B), by striking "sell," and inserting "except as provided in paragraph (4), sell,"; and

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

"(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

"(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

"(i) such use will be the principal use of the property; and

"(ii) title to the property reverts to the United States in the event that the property is used otherwise.".

D'AMATO AMENDMENT NOS. 1403 AND 1404

Mr. HATFIELD (for Mr. D'AMATO) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1403

On page 22, line 6, after "Chapter V", insert the following:

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $5,000,000, to remain available until expended, for rewards to individuals as authorized by 22 U.S.C. 2708: Provided, That such funds shall be available for obligation notwithstanding section 15 of the State Department Basic Authorities Act, as amended.

AMENDMENT NO. 1404

At the appropriate place insert the following:

SEC. . SENSE OF THE SENATE.

Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi have been indicted by the Justice Department for conspiracy to destroy a United States aircraft and kill one hundred and eighty nine United States nationals in violation of sections 2331 and 2 of

title 18, United States Code, and section 371 of title 18, United States Code;

The above named individuals have been indicted for causing the destruction of a United States carrier plan, Pan Am Flight 103, used in foreign commerce, over Lockerbie, Scotland on December 21, 1988, in violation of sections 32(a)(1), 34, and 2 of title 18, United States Code; and section 844(i) and 2, of title 18, United States Code;

The meticulous investigation by the Federal Bureau of Investigation, the Justice Department and the various other agencies involved in the events, has lead to these indictments;

Authorities from Scotland, the United Kingdom, Switzerland, Malta, Germany, Sweden, and France have participated in the almost three-year investigation of the destruction of Pan Am Flight 103; and

The families of the victims of Pan Am Flight 103 have suffered untold grief at the loss of their loved ones: Now, therefore, it is the sense of the Senate that—

(1) the President of the United States should pursue by any and all legal means the apprehension for trial in the United States, Lamen Khalifa Fhimah and Abdel Basset Ali al-Megrahi who have been indicted by the Justice Department for their roles in the destruction of Pan Am flight 103 on December 21, 1988;

(2) the President should offer rewards for information leading to the arrest and return to the United States for trial for the above named individuals as part of the State Department's Terrorism Information Reward Fund, under section 2709 of title 22, United States Code; and the Justice Department's Terrorism Information Reward Fund, under section 3071 of title 18, United States Code;

(3) the President should pursue the apprehension of the above named individuals even if force is necessary under the Ker-Frisbie Doctrine; and

(4) Notwithstanding the indictments of the above named individuals, the investigation of the bombing of Pan Am Flight 103 must continue to be vigorously and intensively pursued in order to bring to justice the individuals who ordered, directed, and paid for commission of this terrible crime, no matter where they might be located.

D'AMATO AMENDMENT NO. 1405

Mr. D'AMATO proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate placed insert the following language:

The Additional United States Notes for chapter 87 of the Harmonized Tariff Schedule of the United States are amended by adding at the end thereof the following new note:

"3. Any motor vehicle that is—

"(a) a light truck within the meaning of section 523.5 of title 49 of the Code of Federal Regulations (as in effect on October 1, 1990); or

"(b) a light-duty truck within the meaning of such term as defined in section 86.082-2 of title 40 of the Code of Federal Regulations (as in effect July 1, 1990);

shall be classified under heading 8704.".

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

NUNN (AND WARNER) AMENDMENT NO. 1406

Mr. BYRD (for Mr. NUNN, for himself and Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 14, below line 23, insert the following new section:

SEC. 106. CLASSIFIED PROGRAM.

(a) In section 110 of the Classified Annex incorporated into the Department of Defense Appropriations Act, 1992, the matter beginning with "Notwithstanding" and ending with "*Provided*, That" shall have no force or effect.

(b) The funds described in section 110 of such Classified Annex may be obligated for the program described therein only in accordance with the Classified Annex incorporated into the National Defense Authorization Act for Fiscal Years 1992 and 1993.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1407

Mr. LAUTENBERG (for himself, Mr. WIRTH, Mr. CHAFEE, Mr. METZENBAUM, Mr. PACKWOOD proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of title II, insert the following:

SEC. 2. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this or any other Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

WIRTH AMENDMENT NO. 1408

Mr. WIRTH proposed an amendment to amendment No. 1407 proposed by Mr. LAUTENBERG (and others) to the joint resolution (H.J. Res. 157), supra, as follows:

At the end of amendment 1407, add the following:

(a) IN GENERAL.—(1) Chapter 55 of Title 10, United States Code is further amended by inserting the following new section:

SEC. . REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station, consistent with existing laws and policies governing military medical care for a member of the uniformed services and any dependent of the member.

(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost, including indirect cost of providing the service.

(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.

SPECTER AMENDMENT NO. 1409

Mr. SPECTER proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert:

TITLE —PENALTY-FREE WITHDRAWALS

SECTION 01. SHORT TITLE.

This title may be cited as the "Consumer Confidence and Financial Flexibility Act of 1991."

SEC. 02. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1992.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable-year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—Subsection (a) shall not apply to any taxpayer if the adjusted gross income of the taxpayer for the taxpayer's first taxable year beginning in 1991 exceeds—

(1) $1,000,000 in the case of married individuals filing a joint return,

(2) $50,000 in the case of a married individual filing a separate return, and

(3) $75,000 in the case of any other taxpayer.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during the period beginning on the date of the enactment of this Act and ending on December 31, 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is spent by the individual, not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs,

to purchase or improve real property or to purchase durable goods.

(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in subsection (c)(1)(B) shall not exceed $10,000.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.)—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 03. ONE-YEAR EXTENSION OF RESEARCH AND EXPERIMENTATION TAX CREDIT, LOW-INCOME HOUSING TAX CREDIT, MORTGAGE REVENUE BOND TAX PROVISIONS, AND TARGETED JOBS TAX CREDIT.

(A) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended—

(A) by striking "2 taxable years" and inserting "3 taxable years", and

(B) by striking "August 1, 1991" and inserting "August 1, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after August 1, 1991.

(b) LOW-INCOME HOUSING CREDIT.—

(1) IN GENERAL.—Subsection (o) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended—

(A) by striking "1991" each place it appears and inserting "1992",

(B) by striking "1992" each place it appears in paragraph (2) and inserting "1993",

(C) by striking "1993" in paragraph (2)(B) and inserting "1994", and

(D) by striking "1994" in paragraph (2)(C) and inserting "1995".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1991.

(e) MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 (defining qualified mortgage bond) is amended by striking "December 31, 1991" each place it appears and inserting "December 31, 1992".

(2) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 of such Code (relating to interest on certain home mortgages) is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(3) EFFECTIVE DATES.—

(A) BONDS.—The amendments made by paragraph (1) shall apply to bonds issued after December 31, 1991.

(B) CERTIFICATES.—The amendment made by paragraph (2) shall apply to elections for periods after December 31, 1991.

(d) TARGETED JOBS CREDIT.—

(1) IN GENERAL.—Paragraph (4) of section 51(c) of the Internal Revenue Code of 1986 is amended by striking "December 31, 1991" and inserting "December 31, 1992".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals who begin work for the employer after December 31, 1991.

BYRD AMENDMENTS NOS. 1410 AND 1411

Mr. BYRD proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1410

SEC. . EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102-154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

AMENDMENT NO. 1411

SEC. . EMERGENCY FOREST SERVICE FIREFIGHTING FUND.

The fiscal year 1992 Department of the Interior and Related Agencies Appropriation Act (Public Law 102-154) is hereby amended by adding the words ", emergency presuppression" in both instances after the words "emergency rehabilitation" which appear under this head in said Act.

DASCHLE AMENDMENT NO. 1412

Mr. BYRD (for Mr. DASCHLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following:

SECTION . AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516).

BUMPERS (AND PRYOR) AMENDMENT NO. 1413

Mr. BYRD (for Mr. BUMPERS, for himself and Mr. PRYOR) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 24, between lines 21 and 22, insert the following new section:

SEC. 204. EXTENSIONS OF CERTAIN FERC-ISSUED LICENSES.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(1) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(2) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(3) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

(b) TERMINATION OF AUTHORIZATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section.

(c) CONSOLIDATION OF REQUESTS.—To facilitate requests under this section, the Commission may consolidate the requests.

CONRAD (AND OTHERS) AMENDMENT NO. 1414

Mr. BYRD (for Mr. CONRAD, for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, Mr. BAUCUS, and Mr. PRESSLER) proposed an amendment to the joint resolution (H.J. RES. 157), supra; as follows:

At the appropriate place, insert the following new sections:

SEC. . MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN GRAIN AFTER IMPORTATION.

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

(1) ENTRY.—The term "entry" means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) CERTIFICATION REQUIREMENTS REGARDING FOREIGN GRAIN.—

(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (c) shall be included in the documentation covering the entry of any foreign grain.

(2) QUARTERLY REPORTS.—A consignee of imported foreign grain shall submit to the Secretary of Agriculture a quarterly report that certifies—

(A) what percentage of the foreign grain covered by an end-use certificate was used by the consignee during the quarter; and

(B) that the grain referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate.

(c) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (b) shall be in such form, and require such information, as the Secretary of Agriculture considers necessary or appropriate to carry out the purposes of this section, including—

(1) in the case of the end-use certificate—

(A) the name and address of the importer of record of the foreign grain;

(B) the name and address of the consignee of the grain;

(C) the identification of the country of origin of the grain;

(D) a description by class and quantity of the grain covered by the certificate;

(D) specification of the purpose for which the consignee will use the grain; and

(E) the identification of the transporter of the grain from the port of entry to the processing facility of the consignee; and

(2) in the case of the quarterly report—

(A) the information referred to in subparagraphs (A) and (B) of paragraph (1);

(B) the identification of the end-use certificates currently held by the consignee;

(C) a statement of the quantity of the foreign grain covered by each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

(D) a statement of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C); and

(E) a statement of the quantity of wheat, barley, and oats that have been exported by the consignee during the quarter.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such requirements regarding the preparation and submission of the quarterly reports required under subsection (b)(2) as may be necessary or appropriate to carry out the purposes of this section.

(e) PENALTIES.—

(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary of Agriculture to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

(f) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of foreign grain unless the importer of record presents at the time of entry of the grain an end-use certificate that complies with the applicable requirements of subsection (c).

SEC. . SUSPENSION OR DEBARMENT FOR USE OF FOREIGN GRAIN IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) AGRICULTURAL TRADE PROGRAM.—The term "agricultural trade program" means an export promotion, export credit, credit guarantee, bonus, or other export or food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

(2) FOREIGN GRAIN.—The term "foreign grain" means any of the following, if a product of any foreign country or instrumentality:

(A) Wheat provided for in heading 1001 of the Harmonized Tariff Schedule of the United States.

(B) Barley provided for in heading 1003.00 of such Schedule.

(C) Oats provided for in heading 1004.00.00 of such Schedule.

(b) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program.

(c) WAIVER.—

(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using foreign grain in violation of the terms and conditions of the program if the use of the grain by the person was unintentional and the quantity of grain involved was small.

(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of foreign grain involved.

D'AMATO AMENDMENT NO. 1415

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 23, after line six insert the following:

CHAPTER VII

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $10,100,000 to remain available until September 30, 1994, for the purchase of one MH-60G helicopter."

BURNS AMENDMENT NO. 1416

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

The following is to be added in the appropriate place:

( ) "The Secretary of Interior shall direct the National Park Service to consult with the Bureau of Indian Affairs and the Crow Tribe of Montana to explore joint opportunities with the private sector for the purpose of implementing the Park Service 1986 General Management Plan for the Custer Battlefield National Monument. The Secretary shall provide an interim report to the appropriate committees by February 15, 1992."

GORE AMENDMENT NO. 1417

Mr. BYRD (for Mr. GORE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place, insert the following new section:

SEC. . WAIVER OF CERTAIN PERSONNEL PROVISIONS.

In the administration of the provisions of subchapter IV of chapter 35, United States Code, the Secretary of State may waive any 5-year limitation under such subchapter (including periods of separation under section 3582(b) and reemployment under sections 3581(5) and 3582(c) of such title) relating to any employee of the United States who on the date of the enactment of this section is serving with the Intergovernmental Panel on Climate Change, except such waiver may not extend any such 5-year period for more than an additional period of 2 years, with a possible further extension of 1 year.

BRADLEY AMENDMENT NO. 1418

Mr. BYRD (for Mr. BRADLEY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 22, line 5, before the period, insert ", subject to authorization".

LEAHY AMENDMENT NO. 1419

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the bill, insert: "Unobligated funds in the amount of $990,000 authorized and appropriated under P.L. 102-143 for bridge safety repairs in Vermont shall be made available as follows—$350,000 to the City of Barre for the Granite Street Bridge, $350,000 to the City of Montpelier for the Bailey Avenue Bridge, $90,000 to the Town of Brandon for the replacement of the Dean Bridge, and $90,000 for the Town of Williston and $100,000 for the Town of Essex for the North Williston Road Bridge—without regard to whether or not such expenses are incurred in accordance with Sections 101, 106, 110, and 120 of Title 23 of the United States Code."

STEVENS AMENDMENT NO. 1420

Mr. BYRD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157) supra, as follows:

At the appropriate place in the bill insert the following:

"SEC. . SEALS OF THE UNITED STATES SENATE AND THE UNITED STATES HOUSE OF REPRESENTATIVES

(a) The caption for Section 713 of Title 18, United States Code, is amended to read as follows:

"§ 713. Use of likenesses of the great seal of the United States, the seals of the

President and Vice President, and the seals of the United States

Senate and the United States House of Representatives".

(b) Section 713 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States or of the seals of the United States Senate or United States House of Representatives, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any public building, monument, or stationery, for the purposes of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or pruchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than 6 months, or both.

"(d) Whoever, except as directed by the United States House of Represenatatives, or the Clerk of the House on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, shall be fined not more than $5,000 or imprisoned not more than six months, or both.

"(e) A violation of subsection (a), (b), (c), or (d) of this section may be enjoined at the suit of the Attorney General upon complaint by any authorized representative of any branch, department or agency of the United States."

(c) The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item for section 713 and inserting the following:

"713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, and the seals of the United States Senate and the United States House of Representatives.".

STEVENS AMENDMENT NO. 1421

Mr. HATFIELD (for Mr. STEVENS) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

At the appropriate place in the Resolution insert the following new section:

SEC. . Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States versus Exxon Corporation and Exxon Shipping Company (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, United States versus Exxon Corporation et al. (Civil No. A91-082 CIV) and State of Alaska versus Exxon Corporation et al. (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited in the Oil Spill Liability Trust Fund (26 U.S.C. 9509). Such funds, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses, incurred after October 8, 1991, for restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such funds shall remain available until expended: *Provided further*, That such funds may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree."

COATS (AND OTHERS) AMENDMENT NO. 1422

Mr. BYRD (for Mr. COATS, for himself, Mr. RIEGLE, and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 157), supra; as follows:

At the end of page 20, insert the following:

"CROP INSURANCE. Effective only for the 1991 crop year, Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 (b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act."

RIEGLE AMENDMENT NOS. 1423 AND 1424

Mr. BYRD (for Mr. RIEGLE) proposed two amendments to the joint resolution (H.J. Res. 157), supra, as follows:

AMENDMENT NO. 1423

At the appropriate place, insert the following new section:

SEC. . Section 2251(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting "fire blight," after "earthquake,".

AMENDMENT NO. 1424

At the end of the joint resolution, add the following new section:

SEC. . (a) Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitation or restoring trees damaged".

(b) Section 2257(a) of such Act (7 U.S.C. 1421 note) is amended by striking "$25,000" and inserting "$75,000".

DOLE AMENDMENT NO. 1425

Mr. BYRD (for Mr. DOLE) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

On page 19, line 13, insert the following after the ".": "For the purpose of this Act, the term "1991 crop" shall include any program crop planted in 1991 for harvest in 1992."

PELL AMENDMENT NO. 1426

Mr. BYRD (for Mr. PELL) proposed an amendment to the joint resolution (H.J. Res. 157), supra, as follows:

KASTEN (AND OTHERS) AMENDMENT NO. 1427

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. WALLOP, Mr. MACK, Mr. LOTT, Mr. NICKLES, Mr. SYMMS, Mr. SMITH, Mr. BURNS, Mr. COATS, Mr. CRAIG, and Mr. HATCH) submitted an amendment intended to be proposed by them to the joint resolution (H.R. Res. 157), supra, as follows:

On page 22 on line 6, after "Chapter V" insert the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $300,000, to remain available until expended, to be expended through the Interjurisdictional Fisheries Program for the Quahog Transplant Fund of the Rhode Island Department of Environmental Management for the restoration of shellfishing beds damaged by Hurricane Bob.

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Family Tax Freedom Act of 1991".

(b) AMENDMENT OF 1986 CODE.—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 the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

Sec. 101. Nonrefundable tax credit for children.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

Sec. 201. Reduction in individual capital gains rate.

Sec. 202. Reduction in corporate capital gains rate.

Sec. 203. Reduction of minimum tax rate on capital gains.

Sec. 204. Indexing of certain assets for purposes of determining gain or loss.

Sec. 205. Indexing of limitation on capital losses of individuals.

Sec. 206. Exclusion of gain from sale of principal residence.

Sec. 207. Effective dates.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

Sec. 301. Depreciation adjustment for certain property placed in service in taxable years beginning after December 31, 1991.

Sec. 302. Phase-in of expensing for property placed in service in taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

Sec. 401. Establishment of individual retirement plus accounts.

Sec. 402. Penalty-free IRA plus withdrawal for home purchase, higher education, and health costs.

TITLE V—TREATMENT OF PASSIVE LOSSES

Sec. 501. Treatment of certain real estate activities under limitations on losses from passive activities.

TITLE VI—ENTERPRISE ZONES

Sec. 600. Purpose.

Subtitle A—Designation of Enterprise Zones

Sec. 601. Designation of zones.

Sec. 602. Reporting requirements.

Sec. 603. Interaction with other Federal programs.

Subtitle B—Federal Income Tax Incentives

Sec. 611. Definitions and regulations; employee credit; capital gain exclusion; stock expensing.

Sec. 612. Alternative minimum tax.

Sec. 613. Adjusted gross income defined.

Sec. 614. Effective date.

Subtitle C—Regulatory Flexibility

Sec. 621. Definition of small entities in enterprise zone for purposes of analysis of regulatory functions.

Sec. 622. Waiver or modification of agency rules in enterprise zones.

Sec. 623. Federal agency support of enterprise zones.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

Sec. 631. Foreign-trade zone preferences.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

Sec. 641. Repeal.

TITLE I—NONREFUNDABLE TAX CREDIT FOR CHILDREN

SEC. 101. NONREFUNDABLE TAX CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign

tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter and chapter 21 for the taxable year an amount equal to the sum of—

"(1) $1,000 multiplied by the number of qualifying children of the taxpayer who have not attained the age of 6 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(2) $300 multiplied by the number of qualifying children of the taxable year who have attained the age of 6 but have not attained the age of 19 as of the close of such calendar year.

"(b) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(1) the sum of the regular tax (reduced by the sum of the credits allowable under subpart A and section 32) and the tax imposed by chapter 21, over

"(2) the tentative minimum tax,

for the taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B) thereof).

"(2) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3) (determined without regard to subparagraphs (C) and (E) thereof).

"(3) CERTAIN OTHER RULES APPLY.—Subsections (d) and (e) of section 32 shall apply."

(b) DEPENDENT CARE CREDIT NOT AVAILABLE FOR CHILDREN UNDER AGE 6.—Subparagraph (A) of section 21(b)(1) (defining qualifying individual) is amended by inserting "(other than an individual described in section 30(a)(1))" after "taxpayer".

(c) CONFORMING AMENDMENT.—The table of sections for such subpart B is amended by inserting after the item relating to section 25 the following new item:

"Sec. 30. Credit for children."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—REDUCING THE COST OF CAPITAL BY REDUCING CAPITAL GAINS TAX RATES, INDEXING THE BASIS OF CERTAIN ASSETS, AND EXCLUDING GAIN FROM SALES OF PRINCIPAL RESIDENCES

SEC. 201. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies."

(b) PHASEOUT OF PERSONAL EXEMPTIONS AND LIMITATION ON DEDUCTION OF ITEMIZED DEDUCTIONS NOT TO RESULT FROM NET CAPITAL GAIN.—

(1)(A) Subparagraphs (A) and (B) of section 151(d)(3) (relating to phaseout of exemption amount) are each amended by inserting "modified" before "adjusted gross income".

(B) Paragraph (3) of section 151(d) of such Code is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income reduced by net capital gain."

(2) Subsection (a) of section 68 (relating to overall limitation on itemized deductions) is amended by inserting "(reduced by net capital gain (determined in accordance with the last sentence of section 151(d)(3)(D)))" after "adjusted gross income".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 202. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes December 31, 1991, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "15 percent".

SEC. 203. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 204. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (A)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for the subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—This table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after June 30, 1991, see section 1022(a)(1)."

SEC. 205. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins.

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1990.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 206. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—Gross income does not include gain from the sale or exchange of property if such property has been owned and used by the taxpayer as the taxpayer's principal residence.

"(b) SPECIAL RULES.—

"(1) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in

a cooperative housing corporation (as defined in such section), then the use requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(2) INVOLUNTARY CONVERSIONS.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(3) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which has been owned and used by the taxpayer as the taxpayer's principal residence, this section shall apply with respect to so much of the gain from sale or exchange of such property as is determined, under regulations prescribed by the Secretary, to be attributable to the portion of the property so owned and used by the taxpayer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1033(h) is amended to read as follows:

"(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(2) Subsection (l) of section 1034 is amended to read as follows:

"(l) TERMINATION.—This section shall not apply to any sale or exchange occurring after December 31, 1991, in taxable years ending after such date."

(3) Section 1038 is amended by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) Paragraph (7) of section 1250(d) is amended to read as follows:

"(7) DISPOSITION OF PRINCIPAL RESIDENCE.—Subsection (a) shall not apply to a disposition of property to the extent used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121)."

(5) Subsection (c) of section 6012 is amended by striking "one-time exclusion of gain from sale of principal residence by individual who has attained age 55" and inserting "exclusion of gain from sale of principal residence".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 121 and inserting the following new item:

"Sec. 121. Exclusion of gain from sale of principal residence."

SEC. 207. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall apply to sales or exchanges occurring after December 31, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 205 shall apply to taxable years beginning after December 31, 1991.

TITLE III—ADJUSTING DEPRECIATION RATES TO REFLECT INFLATION

SEC. 301. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(j) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1991.—

"(1) IN GENERAL.—In the case of tangible property (other than residential rental property and nonresidential real property) placed in service in a taxable year beginning after December 31, 1991, the deduction allowable under this section with respect to such property for any taxable year (after the taxable year during which the property is placed in service) shall be—

"(A) the amount so allowable for such taxable year without regard to this subsection, multiplied by

"(B) the applicable neutral cost recovery adjustment.

"(2) APPLICABLE NEUTRAL COST RECOVERY ADJUSTMENT.—For purposes of paragraph (1), the applicable neutral cost recovery adjustment for any calendar year is the number determined by—

"(A) dividing—

"(i) the gross national product deflator for the calendar quarter of the preceding calendar year which corresponds to the calendar quarter during which the property was placed in service by the taxpayer, by

"(ii) the gross national product deflator for the calendar quarter during which the property was placed in service by the taxpayer, and

"(B) then multiplying the number determined under subparagraph (A) by the number equal to 1.035 to the nth power where 'n' is the number of calendar years after the calendar year in which the property was placed in service by the taxpayer and before the 1st calendar year beginning with or within the taxable year for which the deduction under this subsection is being determined.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—For purposes of paragraph (2), the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

(b) CORRESPONDING MODIFICATION TO DEPRECIATION SCHEDULES.—Paragraphs (1)(A) and (2) of section 168(b) (relating to applicable depreciation method) are each amended by striking "200 percent" and inserting "125 percent".

(c) AMENDMENTS TO ALTERNATIVE MINIMUM TAXABLE INCOME.—

(1) NO INCREASE DUE TO INDEXING.—Subsections (a)(1)(A)(i) and (g)(4)(A) of section 56 (relating to adjustments in computing alternative minimum taxable income) are each amended by inserting "(as adjusted by section 168(j))" after "section 168(g)" each place it appears.

(2) PHASE-OUT OF ALTERNATIVE MINIMUM TAX DEPRECIATION DEDUCTION.—Section 56 is amended by adding at the end thereof the following new subsection:

"(i) PHASE-IN OF FULL DEPRECIATION DEDUCTION.—

"(1) IN GENERAL.—The depreciation deduction with respect to any property determined under subsections (a)(1) and (g)(4) for each taxable year shall be increased by the applicable percentage of the depreciation differential for such taxable year.

"(2) APPLICABLE PERCENTAGE.—The applicable percentage for any taxable year shall be determined in accordance with the following table:

"In the case of a taxable year which begins:

After January 1 of:	And on or before January 1 of:	The applicable percentage is:
1992	1993	20
1993	1994	30
1994	1995	40
1995	1996	50
1996	1997	60
1997	1998	70
1998	1999	80
1999	2000	90
2000		100.

"(3) DEPRECIATION DEDUCTION DIFFERENTIAL.—With respect to any property, the depreciation deduction differential for any taxable year is equal to the excess of—

"(A) the depreciation deduction applicable for purposes of computing the regular tax for such taxable year, over

"(B) the depreciation deduction determined under subsections (a)(1) and (g)(4) for such taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 302. PHASE-IN OF EXPENSING FOR PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1996.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

"(k) PHASE-IN OF EXPENSING.—

"(1) IN GENERAL.—In the case of tangible property placed in service in a taxable year beginning after December 31, 1996—

"(A) the phase-in deductions with respect to such property shall be allowable under this section for the taxable year in which such property is placed in service, and

"(B) the applicable recovery period with respect to such property shall be reduced by the phase-in number of years.

"(2) PHASE-IN DEDUCTIONS AND YEARS.—For purposes of this subsection—

"(A) IN GENERAL.—The phase-in deductions with respect to any property are the aggregate deductions allowable under this section (determined without regard to this subsection and subsection (j)) for the first phase-in number of years in the applicable recovery period.

"(B) PHASE-IN NUMBER OF YEARS.—The phase-in number of years with respect to any property is the number of calendar years after 1996 and before the calendar year in which the property is placed in service.

"(3) ELECTION.—This subsection shall not apply to any property if the taxpayer elects not to apply this subsection to such property. Such an election, once made, shall be irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 401. ESTABLISHMENT OF INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an individual retirement plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—For purposes of this title, the term 'individual retirement plus account' means an individual retirement plan which is designated at the time of the establishment of the plan as an individual retirement plus account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an individual retirement plus account.

"(2) CONTRIBUTION LIMIT.—

"(A) IN GENERAL.—Except in the case of rollover contributions, the aggregate amount which may be accepted as contribu-

tions to an individual retirement plus account shall not be greater than the excess (if any) of—

"(i) the nondeductible limit with respect to the individual for the taxable year under section 408(o) (after application of subparagraph (B)(ii) thereof), over

"(ii) the designated nondeductible contributions made by the individual for such taxable year to 1 or more individual retirement plans.

"(B) $1,000 INCREASE AFTER 1996.—In the case of any taxable year beginning after December 31, 1996, the amount determined under subparagraph (A)(i) (without regard to this subparagraph) shall be increased by $1,000.

"(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—The nondeductible limits under subparagraph (A) for an individual and for such individual's spouse shall be an amount equal to the excess (if any) of—

"(i) $2,000, over

"(ii) the sum of the amount allowed as a deduction under section 219 for contributions on behalf of such individual or such spouse, plus the amount determined under subparagraph (A)(ii) with respect to each.

In no event shall the sum of such limits exceed an amount equal to the sum of the compensation includible in the individual's and spouse's gross income for the taxable year, reduced by the sum of the amounts determined under clause (ii).

"(3) CONTRIBUTIONS AFTER AGE 70½.—Contributions may be made by an individual to an individual retirement plus account after such individual has attained the age of 70½.

"(4) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contributions may be made to an individual retirement plus account unless such rollover contribution is a contribution of a distribution or payment out of—

"(A) another individual retirement plus account, or

"(B) an individual retirement plan which is not allocable to any amount transferred to such plan which represented any portion of the balance to the credit of an employee in a qualified trust (or any income allocable to such portion).

"(d) DISTRIBUTION RULES.—For purposes of this title—

"(1) IN GENERAL.—Except in the case of a qualified distribution, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an individual retirement plus account.

"(2) TREATMENT OF QUALIFIED DISTRIBUTION.—In the case of a qualified distribution from an individual retirement plus account—

"(A) the amount of such distribution shall not be includible in gross income; and

"(B) section 72(t) shall not apply.

"(3) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified distribution' means any distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of an individual) on or after the death of the individual, or

"(iii) attributable to the employee's being disabled (within the meaning of section 72(m)(7)).

"(B) DISTRIBUTIONS WITHIN 5 YEARS.—No distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year in which the individual made a contribution to an individual retirement plus account, or

"(ii) in the case of a distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years of the date on which such rollover contribution was made.

"(4) SPECIAL RULES RELATING TO ROLLOVERS FROM REGULAR INDIVIDUAL RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, any amount paid or distributed out of an individual retirement plan on or before the earlier of—

"(i) the date on which the individual attains age 55, or

"(ii) June 30, 1993,

shall not be included in gross income (and section 72(t) shall not apply to such amount) if the individual receiving such amount transfers, within 60 days of receipt, the entire amount received to an individual retirement plus account.

"(B) TREATMENT OF TAX-FAVORED AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), there shall be included in gross income (but section 72(t) shall not apply to) the portion of any amount transferred which bears the same ratio to such amount as—

"(I) the aggregate amount of contributions to individual retirement plans with respect to which a deduction was allowable under section 219, bears to

"(II) the aggregate balance of such plans.

"(ii) TIME FOR INCLUSION.—Any amount described in clause (i) shall be included in gross income ratably over the 4-taxable year period beginning with the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) ROLLOVER CONTRIBUTIONS.—For purposes of this section, the term 'rollover contributions' means contributions described in sections 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), and 408(d)(3).

"(f) DETERMINATIONS.—For purposes of this section, any determinations with respect to aggregate contributions to, or the balance of, individual retirement plus accounts shall be made as of the close of the calendar year preceding the calendar year in which the taxable year begins."

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Individual retirement plus accounts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 402. PENALTY-FREE IRA PLUS WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 408A(d)(3) (as added by section 401) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iv) which is a qualified special purpose distribution (within the meaning of subsection (e)).

(b) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—Section 408A (as so added) is amended by redesignating subsections (e) and (f) as (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION FROM IRA PLUS ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified special purpose distribution' means—

"(A) a qualified first-time homebuyer distribution, or

"(B) an applicable medical or educational distribution.

"(2) 25 PERCENT ACCOUNT LIMIT.—

"(A) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

"(i) 25 percent of the sum of—

"(I) the aggregate balance of individual retirement plus accounts established on behalf of an individual, plus

"(II) the aggregate amounts previously treated as qualified special purpose distributions, exceeds

"(ii) the amount determined under clause (i)(II).

"(B) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of subparagraph (A).

"(3) DISTRIBUTIONS FROM IRA PLUS ACCOUNTS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement plan to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

"(B) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

"(C) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in clause (ii)—

"(I) gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and

"(II) section 72(t) shall apply to such amount.

"(ii) EXCEPTION.—Clause (i) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement plus account. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

"(iii) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plus account to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement plus account as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(ii) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(iii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(iv) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(4) APPLICABLE MEDICAL DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—For purposes of paragraph (1), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

"(5) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLUS ACCOUNTS FOR EDUCATIONAL EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of paragraph (4)) does not exceed the qualified higher education expenses of the individual for the taxable year.

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(I) the taxpayer,

"(II) the taxpayer's spouse, or

"(III) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(ii) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE V—TREATMENT OF PASSIVE LOSSES

SEC. 501. TREATMENT OF CERTAIN REAL ESTATE ACTIVITIES UNDER LIMITATIONS ON LOSSES FROM PASSIVE ACTIVITIES.

(a) IN GENERAL.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) CONFORMING AMENDMENT.—Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE VI—ENTERPRISE ZONES

SEC. 600. PURPOSE.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate entrepreneurship, particularly by zone residents, the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

Subtitle A—Designation of Enterprise Zones

SEC. 601. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Enterprise Zones

"Sec. 7880. Designation.

"SEC. 7880. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

"(3) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area, and

"(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e)

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) June 30, 1992.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban development may designate—

"(I) not more than 50 nominated areas as enterprise zones under this section and

"(II) not more than 15 nominated areas as enterprise zones during the first 12-month period beginning on the date determined

under subparagraph (B), not more than 30 by the end of the second 12-month period, not more than 45 by the end of the third 12-month period, and not more than 50 by the end of the fourth 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

"(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available);

"(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)); or

"(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

"(i) the local government and the State in which the nominated area is located have the authority to—

"(I) nominate such area for designation as an enterprise zone,

"(II) make the State and local commitments under subsection (d), and

"(III) provide assurances satisfactory to the Secretary of Housing and Urban development that such commitments will be fulfilled, and

"(ii) a nomination therefor is submitted by such State and local governments in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

"(4) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

"(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

"(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the State or a local government in which the area is located is not complying substantially with the agreed course of action for the area.

"(c) AREA AND ELIGIBILITY REQUIREMENTS—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government;

"(B) the boundary of the area is continuous; and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of not less than—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

"(II) 1,000 in any other case; or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State or local governments in which the nominated area is located certifies, and the Secretary of Housing and Urban Development accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment and general distress;

"(B) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period;

"(C) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 1.5 times the national poverty rate for the period to which such data relate; and

"(D) the area meets at least one of the following criteria:

"(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

"(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

"(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

"(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

"(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State and the local government or governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

"(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

"(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug enforcement prevention and treatment,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area,

"(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

"(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

"(G) linkages to—

"(i) job training,

"(ii) transportation,

"(iii) education,

"(iv) day care,

"(v) health care, and

"(vi) other social service support,

"(H) provision of supporting public facilities, and infrastructure improvements,

"(I) encouragement of local entrepreneurship; and

"(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

"(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief,

"(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

"(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, as are consistent with the intent of the enterprise zone program and have the greatest likelihood of success.

"(f) GEOGRAPHIC DISTRIBUTION.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

"(g) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia."

"(h) CROSS REFERENCES FOR—

"(1) definitions, see section 1391,

"(2) treatment of employees in enterprise zones, see section 1392, and

"(3) treatment of investments in enterprise zones, see sections 1393 and 1394."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of enterprise zones."

SEC. 602. REPORTING REQUIREMENTS.

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 603. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 (as added by this title) shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such title.

(b) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

Subtitle B—Federal Income Tax Incentives

SEC. 611. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) GENERAL RULE.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Enterprise Zones

"Sec. 1391. Definitions and regulatory authority.

"Sec. 1392. Credit for enterprise zone employees.

"Sec. 1393. Enterprise zone capital gain.

"Sec. 1394. Enterprise zone stock.

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

"(a) ENTERPRISE ZONE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

"(2) TERMINATION OF ENTERPRISE ZONE.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

"(b) ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

"(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

"(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

"(C) less than 10 percent of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

"(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

"(E) substantially all of the employees work within an enterprise zone.

"(2) RELATED ACTIVITIES TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

"(3) SPECIAL RULES.—

"(A) RENTAL REAL PROPERTY.—For purposes of paragraph (1), real property located within an enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

"(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be an enterprise zone business if—

"(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b);

"(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses; or

"(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

"(c) ENTERPRISE ZONE PROPERTY.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone property' means any property used in the active conduct of an enterprise zone business.

"(2) TERMINATION OF ENTERPRISE ZONE.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

"(d) RELATED PERSONS.—For purposes of this subchapter, a person shall be treated as related to another person if—

"(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of title VI of the Economic Growth and Family Tax Freedom Act of 1991, including—

"(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

"(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal government, and

"(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) GENERAL RULE.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed $10,500.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE ZONE EMPLOYEE.—The term 'enterprise zone employee' means an individual—

"(A) performing services during the taxable year that are directly related to the conduct of an enterprise zone business,

"(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

"(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal government, any State government or subdivision thereof, or any local government.

"(2) WAGES.—The term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

"(3) QUALIFIED WAGES.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

"(c) LIMITATIONS.—

"(1) PHASE-OUT OF CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $525, over

"(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds $20,000.

"(2) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (c)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(d) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating

to the alternative minimum tax) with respect to such taxpayer for such year.

"(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of this chapter.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

"(b) DEFINITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone capital gain' means gain—

"(A) treated as long-term capital gain,

"(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

"(C) properly attributable to periods of use in an enterprise zone business.

"(2) LIMITATIONS.—Enterprise zone capital gain does not include any gain attributable to—

"(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

"(B) any collectibles (as defined in section 408(m)), or

"(C) sales or exchanges to persons controlled by the same interests.

"(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $100,000 for any taxable year, nor $500,000 during the taxpayer's lifetime.

"(A) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

"(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) RELATED PERSON.—

"(A) IN GENERAL.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in subsection (b)(1).

"(B) EXCESS AMOUNTS.—The limitations described in subsection (b)(1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (b)(1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

"(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

"(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

"(2) SPECIAL RULES.—

"(A) LIQUIDATION.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

"(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

"(C) PARTIAL DISQUALIFICATION.—Where some, but not all, of the property acquired by the issuer with the proceeds of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

"(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

"(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

"(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

"(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

"(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disqualified.

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

"(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months following issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation which—

"(i) does not have more than one class of stock,

"(ii) is engaged solely in the conduct of one or more enterprise zone businesses,

"(iii) does not own or lease more than $50,000,000 of total property (including money), as measured by the unadjusted basis of the property, and

"(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of such corporation is owned by individuals, partnerships, estates or trusts.

"(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of $50,000,000 of enterprise zone stock.

"(C) AGGREGATION.—For purposes of applying the limitations under paragraph (2), the issuer and all related persons shall be treated as one person.

"(3) AMOUNT PAID.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

"(f) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of this chapter to the contrary—

"(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

"(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

"(h) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction

under subsection (a) for any taxable year, then—

"(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

"(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

"(i) CROSS REFERENCE.—

For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23); by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a)."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Enterprise zones."

SEC. 612. CORPORATE ALTERNATIVE MINIMUM TAX.

Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

"(iii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income."

SEC. 613. ADJUSTED GROSS INCOME DEFINED.

Section 62(a) (relating to the definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1394."

SEC. 614. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years ending after December 31, 1991.

Subtitle C—Regulatory Flexibility

SEC. 621. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any unit of government that nominated an area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code)."

SEC. 622. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

"(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

"611. Waiver or modification of agency rules in enterprise zones."

(c) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 611" immediately before "means".

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting "(except section 611)" immediately after "chapter"; and

(2) in subsection (b) by inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence.

SEC. 623. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action under section 7880 of the Internal Revenue Code of 1986.

Subtitle D—Establishment of Foreign-Trade Zones in Enterprise Zones

SEC. 631. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the

establishment of foreign-trade zones pursuant to an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

Subtitle E—Repeal of Title VII of the Housing and Community Development Act of 1987

SEC. 641. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1428

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 848) an act Little Bighorn Battlefield National Monument, as follows:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABLITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37(a) of P.L. 92-203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

RECOGNIZING THE CONTRIBUTIONS OF FEDERAL CIVILIAN EMPLOYEES DURING THE ATTACK ON PEARL HARBOR AND WORLD WAR II

AKAKA AMENDMENT NO. 1429

Mr. MITCHELL (for Mr. AKAKA) proposed an amendment to the joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, as follows:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees".

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. LEAHY proposed an amendment to the bill (H.R. 3029) to make technical corrections to agricultural laws; as follows:

On page 321, line 9, insert after "Laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 of page 265.

FOWLER AMENDMENT NO. 1431

Mr. MITCHELL (for Mr. FOWLER) proposed an amendment to the bill H.R. 3029, supra, as follows:

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or

private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate of November 22, 1991, at 10 a.m. to consider a temporary moratorium related to the issues of medicaid voluntary donations, provider-specific taxes, and intergovernmental transfers.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Friday, November 22, 1991, at 10 a.m. to conduct a hearing on the nomination of David Ryder to be Director of the Mint of the United States for 5 years.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Friday, November 22, 1991, at 10 a.m., in SR-332, to hold a hearing on the nominations of Charles R. Hilty, to be Assistant Secretary of Agriculture for Administration, and Gary C. Byrne, to be a member of the Farm Credit Administration.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, November 21, 1991, after the first vote of the afternoon, to hold a business meeting to markup S. 767, the Mickey Leland Childhood Hunger Relief Act, and H.R. 3029, Food Agriculture, Conservation, and Trade Act Amendments of 1991.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 2 P.M. to hold an ambassadorial nomination hearing.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 9:30 a.m. to hold an ambassadorial nomination hearing.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 22, at 4 p.m. to hold a brief business meeting.

MEETING AGENDA

The Committee will consider and vote on the following business item:

LEGISLATION

(1) S. 1128, Omnibus Nuclear Proliferation Control Act of 1991.

(2) S. Res. 196, concerning a prompt withdrawal of Soviet armed forced from the Baltic States.

(3) H. Con. Res. 188, concerning freedom of emigration and travel for Syrian Jews.

(4) S. Con. Res. 78, regarding the unfair imprisonment and trial of Dr. Nguyen Dan Que by the Government of Vietnam.

NOMINATIONS*

(1) Mr. John H. Kelly, of Georgia, to be Ambassador to the Republic of Finland.

(2) Mr. Williams Edwin Ryerson, of Virginia, to be Ambassador to the Republic of Albania.

(3) Mr. John R. Davis, Jr., of California, to be Ambassador to Romania.

(4) Mr. George Fleming Jones, of Texas, to be Ambassador to the Co-operative Republic of Guyana.

(5) Mr. Curtis Warren Kamman, of the District of Columbia, to be Ambassador to the Republic of Chile.

(6) Mr. Robert Stephen Pastorino, of California, to be Ambassador to the Dominican Republic.

(7) Mr. Frederick Vreeland, of the District of Columbia, to be Ambassador to the Kingdom of Morocco.

(8) Mr. Clair W. Burgener, of California, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1994.

(9) Mr. Williams K. Reilly, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994

*All nominations are contingent upon the successful completion of their hearings.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Friday, November 22, Beginning at 10 a.m., to conduct a hearing to examine proposed revisions to the procedures for determining wetlands jurisdiction.

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

ADDITIONAL STATEMENTS

TRAVELERS WITH DISABILITIES AWARENESS WEEK

• Mr. KERRY. Mr. President, I want to commend the travel industry for participating in Travelers With Disabilities Awareness Week from December 1–7, 1991. This educational program was created in response to the enactment of the Americans With Disabilities Act to promote understanding throughout the tourism industry about the benefits and challenges of serving travelers with disabilities. Although this is a national program, I am very proud that it is being organized in my home State of Massachusetts, where the tourism industry is very important to us.

Now that the ADA is law and barriers to equal access for public accommodations and transportation are being eliminated, this awareness effort is extremely important in carrying out the spirit as well as the letter of the law. The tourism industry, to its credit, is preparing actively to welcome the 43 million Americans with disabilities. The Society for the Advancement of Travel for the Handicapped, or SATH, a nonprofit organization which has actively represented travelers with disabilities since 1976, estimates that these tourists have spending power of some $50 billion or 15 percent of the total $350 billion spent on tourism in the United States in 1990.

Participants in this awareness week include more than 200 hotels, motels, attractions, museums, transportation companies, travel agencies, State tourism departments and visitors bureaus. I would like to include a copy of the Awareness Manifesto which participants are signing to pledge their acceptance of the principles of this week:

TRAVELERS WITH DISASBILITIES AWARENESS WEEK MANIFESTO

The Americans With Disabilities Act is now law.

Increasing numbers of persons with disabilities are traveling, touring and enjoying hospitality services and leisure activities.

The travelers-with-disabilities market represents significant annual revenues.

Travelers with disabilities create jobs in the tourism industry.

We pledge our best efforts and understanding as participants in Travelers With Disabilities Awareness Week to promote:

Awareness of the needs of travelers with disabilities; and

Attitude of respect for travelers with disabilities; and

Accessibility to accommodate travelers with disabilities.

We also pledge to employ qualified persons with disabilities.•

COMMEMORATING THE SESQUICENTENNIAL OF THE CONGREGATION OF HOLY CROSS

• Mr. D'AMATO. Mr. President, I rise today to commemorate the national celebration of the sesquicentennial of the establishment of the Congregation of Holy Cross, in the United States.

The Congregation of Holy Cross was founded near Le Mans, France in 1837, by Father Basil Anthony Moreau. The Congregation of Holy Cross was a union of the Brothers of St. Joseph, dedicated to education, and the auxiliary priests of Le Mans, dedicated to missionary work. With this union, the future tenets of the Congregation of Holy Cross, were formed.

Father Edward Sorin and six Holy Cross brothers, at the invitation of Bishop Hailandiere, of Vincennes, IN, traveled from France to New York in September 1841. Father Sorin and the Brothers continued on to Vincennes, where Bishop Hailandiere offered them a plot of land that would become the site of Notre Dame University. Father Sorin went on to serve as President of Notre Dame University until 1865.

The Sisters of Holy Cross were brought from France in 1843, by Father Sorin, and established in Bertrand, MI, some five miles from Notre Dame. Nine years later, he moved them to a motherhouse adjacent to the University. Father Sorin was instrumental in bringing Eliza Maria Gillespie to the United States. As Mother Angela, she became to the Sisters of Holy Cross, what Father Sorin was to Notre Dame. The Sisters of Holy Cross, along with brothers from the congregation, provided important medical care and spiritual consolation for injured soliders during the Civil War.

With Father Sorin's election to superior-general in 1868, he began to supervise the educational and missionary activities of the Congregation in France, Canada, and Bengal, as well as in the United States.

From their humble beginnings in France, education has been a fundamental tenet of the Holy Cross Congregation, and these efforts continue today through their work in universities in Massachusetts, Pennsylvania, and Oregon. Their missionary work has expanded to Asia, Africa, and South America.

The Congregation of the Holy Cross has dedicated itself to the virtuous and admirable goals of education and missionary work serving generations of educationally and spiritually needy people. May the congregation continue to carry on with its good works and charity, educating generations of students all over the world in the interests of humanity and kindness.•

TRIBUTE TO STATE SENATOR THOMAS J. WYSS

• Mr. COATS. Mr. President, I would like to take this opportunity to ask my colleagues to join me in saluting Indiana State Senator Thomas J. Wyss, the only State legislator in the Nation chosen by the National Commission Against Drunk Driving to receive its seventh annual Distinguished Service Award.

During his 6 years of service in the Indiana General Assembly, Senator Wyss has fought tirelessly to pass legislation that will significantly reduce the number of impaired drivers on Indiana roads. His previous efforts include laws that make it more difficult for minors to falsify their drivers' licenses, and laws that give judges greater sentencing options for drunken driving offenders.

As Senator Wyss prepares for the next session of the Indiana General Assembly, he will take with him a message from 14,000 Hoosier students and the South Bend Adams High School chapter of Students Against Drunk Driving to continue his crackdown on drunk drivers. He plans to introduce a bill that would permit judges to impose consecutive sentences on persons convicted of causing multiple deaths or injuries as a result of their drunken driving.

Senator Wyss' commitment to public service also carries over to his time outside the State House. He serves as an officer in the Indiana Air National Guard and belongs to the Greater Fort Wayne Crimestoppers and the National Guard Association.

During his years of public service in the Indiana General Assembly and the

Indiana Air National Guard, Senator Wyss has provided dedicated and professional service to the citizens of Indiana, and Allen County in particular. He has distinguished himself as a man of principle whose efforts have saved the lives of many Hoosier travelers.●

TRIBUTE TO JAMES W. HEMPHILL

● Mr. HATFIELD. Mr. President, one of the greatest satisfactions of serving in the U.S. Senate is the opportunity to guide the growth of young people who choose to give their time and talents in a staff capacity in this august body.

Over the years I have been privileged to hold office representing the people of Oregon as a State legislator, as secretary of state, as Governor, and now as a U.S. Senator. I have been associated with literally hundreds of young people, each one contributing in his or her own special way to the offices I have held.

I can think of no individual who has been a part of my staff over this span of 40 years who has shown more loyalty to me and my associates than James W. (Jim) Hemphill.

I can think of no individual who has grown as much in his professional life as Jim Hemphill has done over the past 17 years he has been on my Senate staff. Jim started to work with me when he was 20 years of age.

It is particularly refreshing to see someone who is serving his fellow man who is truly motivated for the real calling we have in public service. Jim Hemphill has no agenda for himself; his performance over these many years has always been in the interest of the people of my State, and in assisting others in the office so that they may properly perform their duties.

One of the major responsibilities that Jim has had is the supervision of our intern program. In this capacity he has served as a role model and instructor for hundreds of young people. How would they describe him? Organized. Trustworthy. Knowledgeable. Compassionate. What more could one ask for in an evaluation by their associates?

Jim has served me as my executive assistant, office manager, as keeper of the books, as a staff assistant on the Rules Committee, and in various political assignments. He has performed with distinction in every one of these assignments.

Perhaps the most lasting memory of his time in my office will be the most important one. He met his wife-to-be, Gail Torokhanian, who also was a member of my staff, during his tenure with me. The Hemphills now have two fine children.

Now it is time for Jim to make even more use of his unusual talents. He will become executive assistant to the Archivist of the United States on December 16, 1991. I thank him not only for what he has done for me and my constituents, but most importantly for the positive example he has provided for so many others.●

MEGA-NOPR

● Mr. KASTEN. Mr. President, I rise today to bring to the attention of the Senate a matter recently proposed by the Federal Energy Regulatory Commission [FERC] which—if implemented as now outlined—would have dire economic consequences for the consumers of natural gas in my State of Wisconsin, as well as in many other States. Moreover, it could, in the long run, reduce the very competition within the natural gas industry that it purports to create.

Known as the mega-NOPR on gas service comparability, the FERC recently released this proposed rulemaking that will dramatically alter the way the natural gas business has operated, principally forcing the separation of the pipeline merchant, or sales, function from the pipeline's transportation function, and thus eliminating one of the ways gas is now purchased. While FERC's stated purpose of promoting these changes in order to level the playing field and enhance competition is worthy, and one which I would normally support, the direction FERC is proceeding would, in fact, actually reduce the options available to all purchasers of natural gas. The specific requirement to separate or unbundle the pipelines' merchant and transportation functions will clearly reduce their ability to provide the traditional, safe, and reliable delivery service offered for over a half century, thus limiting the opportunity of local gas distribution companies to shop among the greatest number of suppliers for the best price and most secure supply possible.

Mr. President, I want to emphasize that I strongly support competition and do not speak exclusively for any particular portion of the natural gas industry. I am, however, an unashamed supporter of natural gas users having as many options as possible to purchase gas. One of these options that is particularly important to those of us from the colder, northern tier States, and which I just alluded to is known as bundled, City-Gate Sales Service. This service, typically utilized by a local distribution company predominantly during the winter months, takes advantage of all the efficiencies of the pipeline system to make available the guaranteed delivery of natural gas regardless of the length or severity of cold weather. This service, of course, is not inexpensive, however, it is necessary, strongly desired by the consuming public, and—we believe—significantly more reliable and safe for the consumer than the alternative proposal offered by the FERC to unbundle the various components that make up the service and then repackage them as separate cost items. When this repackaging occurs, the efficiencies of the system I mentioned earlier unfortunately disappear, thus forcing the natural gas consumer to assume the supply risk or foot significant additional costs.

Limiting market choices, as I believe the proposed mega-NOPR actually does, is not the direction the FERC should be taking us. Rather, the FERC should provide the flexibility in the NOPR for consumers to decide what they want available from the market. Bundled, City-Gate Sales Service can provide substantial savings to all ratepayers—residential, commercial, and industrial consumers. It will provide greater security of natural gas supply to allow distributors to meet our winter heating needs. It will provide one key component in the natural gas supply options, thus allowing our distributors to compete for the best combination of price and secure supply. Moreover, I believe that the freedom to choose the type and form of services available—whether bundled or unbundled—is necessary to properly serve consumers, and increased competiton at the wellhead and at the burner tip is actually achieved.

Mr. President, the gas service comparability policy being developed by the FERC through the mega-NOPR obviously has economic consequences for my constituents as well as for those of other members representing the colder, Northern States. I would submit, however, that this policy could also adversely impact many other areas of this country, including those sections with a great reliance on the economic viability of smaller, independent natural gas producers. I would strongly urge my colleagues to take the time to review this policy very closely and not be fooled by its characterization as a plan to enhance competition. It clearly will not.●

BAHA'I COMMUNITY EMANCIPATION

● Mr. LIEBERMAN. Mr. President, I am pleased to note that the Senate Foreign Relations Committee has recently approved Senate Concurrent Resolution 43, The Baha'i Community Emancipation Resolution. I am proud to be one of the more than forty Senate cosponsors of this important statement of concern for the rights of a peaceful religious minority, the Baha'i community of Iran.

Although the Government of Iran has recently moderated its most repressive actions against Baha'is, the regime continues to persecute individual Baha'is because of their religion, and denies Baha'is the right to function as a law-abiding religious community.

Long before I was elected to the U.S. Senate, I discussed Iran's repression of

the Baha'is with my Connecticut neighbor, Dr. Firuz Kazemzadeh. As a member of the elected national governing board of the 120,000-member American Baha'i community, Dr. Kazemzadeh has been a tireless spokesman for the rights of his coreligionists in Iran. He has testified many times before committees of the Congress, and he helps to remind us of the continuing need to speak out in behalf of an innocent and persecuted minority.

Thanks in part to international pressure—including the four resolutions adopted by the U.S. Congress during the past decade—conditions for many individual Baha'is have improved in recent months. No Baha'is have been executed for nearly 3 years, and few now remain in prison.

This resolution expresses our deep concern, however, that Baha'is continue to suffer religious discrimination. We have ample evidence, in the form of official government documents, that they are denied employment, pensions, and access to education, solely on account of their religion.

Moreover, the resolution makes clear our concern that Iran's largest religious minority is denied the basic rights guaranteed by the Universal Declaration of Human Rights: to organize as a community, elect its leaders, operate schools or carry on any of the normal functions of a law-abiding religious community.

It is my hope that the Government of Iran will acknowledge its responsibilities under the various international covenants to which it is a signatory, and will extend rights to the Baha'i minority.●

A TRIBUTE TO MR. ROGER BACCIGALUPPI UPON HIS RETIREMENT

● Mr. SEYMOUR. Mr. President, I am very pleased to have this opportunity to congratulate Roger Baccigaluppi upon his retirement as president and chief executive officer of the Blue Diamond Cooperative of California.

Since 1961, when Mr. Baccigaluppi joined Blue Diamond, the California Almond crop has increased tenfold, from 71 million pounds, worth about $50 million to 650 million pounds, valued at almost $1 billion. He has played a key role in this dramatic growth process as the leading officer of one of our Nation's strong and healthy cooperatives. As a major contributor in the efforts to modernize and stimulate California's almond industry, Mr. Baccigaluppi has overseen not only advances in technology and efficiency, but also the implementation of progressive marketing strategies. His efforts have been essential in helping the California almond become the State's leading food export and the nation's sixth largest agricultural export. Today, 94 countries consume California almonds.

Mr. Baccigaluppi's exemplary dedication, hard work, and vision have led him to his distinguished position of accomplishment. California's almond industry will miss his dynamic leadership, and its future leaders will undoubtedly draw inspiration from his example to continue on the path of thoughtful planning and healthy growth. I am confident Roger Baccigaluppi will continue, in retirement, to share his wealth of knowledge and experience to the increased productive benefit of California and American agriculture. I am sure my Senate colleagues join me in recognizing the fine work and outstanding accomplishment of my friend and fellow Californian, Roger Baccigaluppi.●

THE PHOENIX COUNTRY DAY SCHOOL CELEBRATES ITS 30TH YEAR

● Mr. McCAIN. Mr. President, I rise today to pay tribute to the Phoenix Country Day School, which is celebrating the 30th anniversary of its founding tonight. Located in a natural desert setting in Paradise Valley, AZ, this independent, not-for-profit college preparatory school has distinguished itself as an institution of invigorating academic achievement.

What began as a dream to establish a high quality school to prepare children for entrance into the best colleges in America, has blossomed into one of the finest schools in the Western United States. I must admit that I say this with a certain lack of objectivity, since two of my children attend Phoenix Country Day School.

The 30th anniversary celebration for PCSD appropriately has selected Mae Sue Talley as the guest of honor. Her vision of creating an outstanding college preparatory school has come to marvelous fruition, and we all owe her our most sincere gratitude for her lifelong commitment.

While I'm privileged to be a Phoenix Country Day School parent, it is readily apparent to all who visit or learn about the school that it is indeed a very special place. From its modest beginnings as a 93-student pioneer school on the arid outskirts of Phoenix, the Phoenix Country Day School has doubled its size and grown to over 570 students.

The Phoenix Country Day School has not only grown older and larger, it has intensified its commitment to academic excellence and love of learning. At a time when our Nation's students are facing increasing challenges from the academic achievements of other industrialized nations, we can point to the Phoenix Country Day School as a heartening example of educational success.

Mr. President, this is a school that vigorously challenges its students, and opens their minds to science, mathematics, the arts, and history. Offering a curriculum for students ranging from prekindergarten to the 12th grade, the Phoenix Country Day School has created an atmosphere for learning that is both rigorous and fun. You can feel this sense of mission in the open and warm relationships among students, faculty, and staff.

Students are taught a foreign language in kindergarten, and a proficiency in public speaking is a requirement for graduation. PCDS's extremely low student-to-faculty ratio allows a great degree of personal tutelage for its students.

The results of this positive and supportive atmosphere is a student body that not only achieves a high degree of academic excellence, but one that also carries forth the Phoenix Country Day School's fine tradition of service to the community.

All PCSD students participate in many worthy community service activities and projects, and the school has also established a 5-week summer program to help disadvantaged children stay in school. Known as Project Excellence, this endeavor is a good example of the caring and nurturing spirit of the faculty and staff at Phoenix Country Day School.

In its 30th year, the Phoenix Country Day School is impressively meeting its goal of preparing its students for success in America's finest universities in a superlative manner. Currently, 99 percent of its students enroll in college after graduation.

I want to offer my special thanks to the Phoenix Country Day School's board of trustees, and the head of the school, Ms. Margaret Madden, for their able stewardship of PCSD.

It is a pleasure for me to extend my congratulations to all the faculty and staff at the Phoenix Country Day School on this milestone in their proud history. I wish them continued success and accomplishment for many decades to come.

The students of PCDS are very fortunate to be able to benefit from this truly wonderful learning center.●

S. 543, THE BANKING BILL

● Mr. ADAMS. Mr. President, yesterday the Senate passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

I rise today to expalin why I would have voted against this bill. I simply could not, in good conscience, add my support to the bill in its present form.

I fully understand the pressures on the chairman of the Banking Committee in bringing the debate on this bill to a conclusion. I watched his frustration grow every day this bill was on the floor. His job was not easy. He should be commended for his efforts.

But I am concerned that in a effort to bring the debate to a conclusion, we

have embarked down a path that will lead to greater uncertainty and more chaos in the banking industry.

I hoped the Senate would focus on the most critical problem facing the banking industry—the steadily worsening financial shape of our banks and the draining of the fund intended to protect the deposits of 110 million Americans.

I had hoped this bill would have addressed the worsening credit crunch, which is cutting off needed loans to small businesses and individuals.

Unfortunately, the Senate became embroiled in a third topic—how the banks could become bigger and richer—even if it might be at the expense of the rest of us.

Somewhere along the way we lost our focus on this bill.

I felt that strong regulatory reforms were an essential component to any bill. I believe the reform sections of the bill including risk-based assessments and capital ratios, early regulatory intervention, strong oversight of foreign banks, and protections against the BCCI's of the world are vitally important.

However, if we were truly interested in getting the banking industry back on its feet, that is where we should have stopped.

Mr. President, we need a banking system that serves people. We need a place for businesses, particularly small businesses, and individuals to obtain credit at reasonable rates. We need a banking system that offers consumers a place to keep their money, write their checks and pay their bills.

The bill that was agreed to yesterday expands powers for banks, ignores vital consumer protections and, I believe, puts American taxpayers in front of runaway locomotive.

Weak regulatory oversight, bad investment decisions, incompetent management and a weak economy has brought the banking industry to this point. Adding more uncertainty by expanding bank powers is not the direction I believe we should be going.

Mr. President, the bill opens the door for nationwide interstate branching. Attempts to strengthen this bill by allowing States to choose whether or not they want interstate branching banks failed. I believe this was a mistake.

Breaking down the barriers to interstate branching has potentially serious affects for Washington State.

In August of this year, Bank of America announced its intention to merge with Security Pacific. This new multistate banking company, based in California, will be the No. 1 player in Washington, controlling over 50 percent of the assets and 40 percent of the insured deposits. This is an incredible concentration of bank power in one out-of-State bank.

This merger is expected to cost Washington 4,000 jobs. A few weeks ago, the Wall Street Journal reported that First Interstate Bankcorp of Los Angeles' merger with First Interstate of Tacoma will cause 3,000 employees to be laid off. That is potentially 7,000 jobs in Washington.

That also means that decisions about loans in Longview and mortgages in Marysville will be made in California. Not in Washington.

Serious questions about the availability of credit, cost, and quality of services to consumers, influence on regional economies, and overall health of an individual State's banking industry must be answered. The advent of interstate branching greatly enhances these concerns. The Senate did not address these issues.

Two days ago, the Senate also sent a negative signal to the elderly of this country. The Senate voted to strip from this bill the basic services and check cashing provisions. With this vote, the Senate lost sight of those who most needed our attention.

Mr. President, this seemingly minor provision would have created equality and fairness for our seniors. It would have guaranteed that basic banking services, which we all need, were available at an affordable cost to retirees.

Yet, the Senate succumbed to the big banks and sold out those in our society who don't have a place at the bargaining table because they can't afford to hire high priced lobbyists to pull up a chair.

We also had the opportunity to strengthen this bill by putting a shorter leash on the FDIC and limiting insured brokered deposits. When the limitation on brokered deposits was defeated, the Senate admitted it failed to learn one of the lessons that the S&L debacle should have taught us.

As I stated earlier, I opposed this measure with deep regret. There were some provisions of this bill that were constructive and would have added stability to the industry.

The controversial provisions allowing banks to engage in risky securities activities were not included in the final package. Deleting these questionable provisions sent a strong signal to the American taxpayer that we understood the dangers in this approach.

As passed by the committee, S. 543 included what I believe was a balanced approach to the difficult problem of banks selling insurance.

Almost 10 years have passed since Congress last passed legislation establishing the authority of banks to sell insurance. However, regulators have, through regulatory fiat, eroded the historic barrier separating banking and insurance. On two occasions, in 1984 and 1988, Congress came close to enacting legislation to close loopholes created by the regulators.

As passed by the committee, S. 543 closed these loopholes. I believe this was a responsible approach to resolving a longstanding ambiguity.

The proponents of banking reform argue that times have changed—that we now have a global marketplace that requires flexibility and diversification for banks. Indeed, times have changed. However, it is highly questionable to maintain that allowing banks to sell insurance will propel our Nation's banks into the ranks of 25 largest banks in the world.

While the world has changed and technical advances continue to be made, it is important to focus on what has not changed. Safety and soundness, and a recognition of the special power and responsibilities associated with providing our economy's credit. These factors continue to define the fundamental features of banking.

If we would not have addressed the insurance issue in S. 543, we would have abdicated our responsibility to stop regulatory activism and legal sleight-of-hand.

The insurance industry today is among the most competitive industries in this country. In my State, the competition is intense and has resulted in fair prices and high quality services to consumers. There are over 500,000 insurance agents and approximately 6,000 life, health, and property/casualty companies in the United States. The premise that bank entry into insurance is necessary to enhance competitiveness is without merit.

I am disappointed that the Senate took a few steps back from the excellent work accomplished by the committee, but I still believe that the insurance provisions were a solid contribution to the overall package.

In addition, I am pleased that the Senate recognized that there is a human cost to the merger mania sweeping the country. The Senate accepted an amendment I offered to assure that Federal regulators examine the impact of mergers on employees. This is already required for mergers in the transportation field. It should be required here. Particularly when it is expected that mergers over the next decade could cost as many as 350,000 jobs.

The Senate is now on record endorsing the fact that no merge should occur without due consideration to the employees who lost their jobs. I believe this is a positive step forward and will reassure bank employees throughout the country that the Senate has not forgotten their plight in the rush to achieve efficiency.

Nonetheless, on balance I believe the bill passed yesterday is seriously flawed. It is my hope that when the conference committee convenes to iron out the significant differences between the House and Senate versions, that we can do better.

I believe we can do better. I will do everything I can to see the final bill is something that serves consumers, seniors, farmers, small businesses and oth-

ers who depend on the ready availability of credit at reasonable rates. I will work for legislation that we all can be proud to discuss with our constituents back home.•

TRIBUTE TO MAJ. GEN. CHARLES S. COOPER III

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to retiring commander Maj. Gen. Charles S. Cooper III. I salute his 36 years of distinguished military service. He is retiring as commander of the New York Air National Guard, Headquarters, Stewart International Airport, Newburgh, NY. He has been responsible for the readiness, training, staffing, and equipping of New York Air National Guard's five flying and seven mission support units.

The general was born on December 27, 1933 in Boston, MA. He graduated from Garden City High School on Long Island, NY, in 1951. He earned a bachelor of arts degree, cum laude, in economics from Amherst College in 1955. His military education transpired at Air Command and Staff College and Air War College.

General Cooper began his USAF military career on June 12, 1955 when he was commissioned as a second lieutenant. He was a distinguished graduate of the Air Force Reserve Officer Training Corps Program. He entered active duty in 1956 and attended U.S. Air Force Primary-Basic Navigation School in Texas. In 1957 he was awarded navigator wings and assigned to the 962d Airborne Early Warning and Control squadron, Otis Air Force Base in Massachusetts.

In July of 1962 he joined the New York Air National Guard and was assigned to the 102d Aeromedical Transport Squadron. In 1972 he was appointed administrative management staff officer in the 106th Fighter Interceptor Group where he stayed until 1976 when he was appointed director of operations at Headquarters, New York Air National Guard. In 1978 he was appointed deputy commander and assumed his present position as commander on July 29, 1984. He was promoted to major general on May 22, 1985.

His military awards and decorations include the Meritorious Service Medal, Air Force Outstanding Unit Award, the Air Force Organizational Excellence Award, National Defense Service Medal, Vietnam Service Medal, Air Force Longevity Service Award with four oak leaf clusters, Armed Forces Reserve Medal, New York State Military Commendation Medal, New York State Long and Faithful Service Award with 25-year device, New York Humanitarian Service Medal, New York State Aid to Civil Authority Medal and the New York Exercise Support Ribbon.

The general is married to Ann (Lewis) of Baldwin, NY. He has four children: Deborah Iacoponi, Peter, Thomas, and Kathryn.

General Cooper is a highly skilled and ready patriot, I congratulate him on his 36 years of dedicated service to our Nation. General Cooper, thank you for your sacrifice and devotion. I wish you every success in your retirement.•

BATTLE CREEK ADVENTIST HOSPITAL 125TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I rise today to join with the citizens of the city of Battle Creek, Calhoun County, and the State of Michigan in congratulating the Battle Creek, Adventist Hospital on the occasion of that institution's 125th anniversary celebration.

The hospital was founded as the Western Health Reform Institute in 1866 by a group of Seventh Day Adventist health pioneers. John Kellogg, father of the health care and food industry legends, Dr. John Harvey Kellogg and W.K. Kellogg gave the first $500 donation to the new hospital.

The institute served 2,000 patients in its first 10 years with only 10 dying, an average of 1 per year, an incredible record, especially for the time. Such an outstanding reputation catapulted the hospital into national prominence which it was to maintain for decades.

In 1877 the institute changed its name to the Battle Creek Medical and Surgical Sanitarium combining modern ideas of medicine with the wholistic approach of physical, psychological, and spiritual wellness. Practicing preventive medicine techniques such as proper diet, exercise, hydrotherapy, sunshine, and massage.

Under the leadership of Dr. John Harvey Kellogg, who served as its medical director for 67 years, and brother W.K. Kellogg, serving as its business director, the hospital gained worldwide recognition as a health care mecca drawing luminaries from all areas of society.

Inventor Thomas Edison, industrialists Henry Ford and Harvey Firestone, athletes Bill Tildon and Johnny Weissmueller, and U.S. President William Howard Taft all were patients at the sanitarium.

America, indeed the world's breakfast habits owe a great debt of gratitude to the sanitarium. The toasted flake cereal product was first developed at the sanitarium and then refined by W.K. Kellogg and others. C.W. Post, a one-time patient is said to have also gleaned ideas from there. He later founded the Post Cereal Co.

The original building for the sanitarium burned down in 1899 and the new building opened in 1903, which is now a portion of the Federal center. The final part of the building opened in 1927, which is now the towers portion of the Federal center. The sanitarium left this building in 1942 and the site became the Percy Jones Veterans Hospital. It moved over to the Old Stone Building and later moved from that to the present building now occupied by the hospital. The sanitarium reverted back to the ownership of the Adventist Church in 1974, which it had left in 1900, and changed its name to the Battle Creek Adventist Hospital in 1981.

The present Battle Creek Adventist Hospital is a 147-bed regional treatment center for metal health and addictions problems which serves 20 counties on a consistent basis but draws patients from all of Michigan and part of Indiana. It serves persons from ages 6 to senior citizen in a variety of modes, including inpatient, partial hospitalization and outpatient treatment at the Battle Creek setting as well as outpatient clinics throughout the region. The original Western Health Reform Institute and then the sanitarium, were forerunners of not only the significant work of the present Adventist Hospital in Battle Creek, but began what has become a worldwide health mission for the Adventists, who eventually established 568 health care facilities in 88 countries, including 60 hospitals in the United States and the world famous Loma Linda University and Medical Center in California.

I had the privilege of touring this outstanding institution last summer and meeting with some of its dedicated staff members. The spirit of wellness through wholeness still exists in the hospital's present incarnation as they remain on the cutting edge of mental health care and addiction treatment.

Mr. President, I ask you along will all of my colleagues in the Senate to join with me in extend our heartfelt congratulations to all the employees and supporters of Battle Creek Adventist Hospital as they commemorate their past and look forward to their future.•

TRIBUTE TO MARIAN L. HEARD

• Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special individual from my home State of Connecticut, Marian L. Heard.

In recognition of Marian Heard's tireless efforts as president and chief executive officer of the United Way of Eastern Fairfield County, she was recently promoted by this organization to a similar position at the United Way of Massachusetts Bay. Marian, who first joined with the United Way in 1974 as a child care program specialist and member of the planning department, worked her way up in the organization to her current position. As president and chief executive officer, a position she assumed in March of 1990, she manages an annual campaign of over $5 million and provides support to a $60 million agency and social service system covering the six-town region of Bridgeport, Fairfield, Easton, Strat-

ford, Trumbull, and Monroe. Although her responsibilities in her new position will be much greater, Marion has clearly demonstrated that she is capable of handling the challenges that lie ahead.

Marian's deep concern for the greater Bridgeport community and helping it to meet its needs, is evidenced by her commitment and dedication to the United Way as well as to a wide variety of regional causes. Marian serves on several area United Way committees such as the national professional advisory council, the national issues committee and the national committee on foundations for the United Way of America. In addition, she serves as the vice chair of the donor choice committee for the United Way of Tri-State and is a member of both the professional advisory councils of the Southwestern United Ways and the United Way of Connecticut.

In her community, Marian has served as a member of the Governor's Child Day Care Council, an appointment which was personally bestowed upon her by the late Governor Ella Grasso. She has hosted her own radio program on WICC in Bridgeport for 6 years, and has won several awards for community service from such organizations as Big Brothers and Big Sisters of Fairfield County and the American Cancer Society.

Marian has also utilized her talents on a national level. In May, 1990, in a meeting at the White House, she was elected as the interim president and chief executive officer of the Points of Light Foundation. Under her leadership, the foundation wrote and adopted a strategic plan and presented the report of the foundation's goals to the honorary chairman, President George Bush, at a special meeting with the board at Camp David.

Marian's activities also highlight her strong commitment to a wide variety of educational causes. Her extensive involvement as an instructor at Housatonic Community College, and her involvement with the University of Bridgeport, where she is a trustee and president of the board of associates, exemplify Marion's dedication to improving the quality of our Nation's educational system.

Marian's involvement does not end here; she is also an accomplished businesswoman. Currently, she is a director at the Mechanics & Farmers Savings Bank in Bridgeport and a member of its audit and executive committees and chair of its contribution committee. She is also a member of the Negro Business and Professional Women's Club, the Bridgeport Rotary and the National Association of Female Executives.

This remarkable woman has been recognized numerous times for her efforts. Most notably, she was cited by the United Nations as one of the top 100 women in Connecticut. Marian was the first recipient of the John Garber Minority Professional Development Award, which was awarded to her by the YWCA for community service, the United Way of America and the Stratford Junior Chamber of Commerce. In 1989, she was named Woman of the Year by the Business and Professional Woman's Club of Bridgeport. In 1990, she was cited by the Housatonic Scout Council for Community Leadership and was presented the Golden Tee Award by the Cardinal Shehan Center for 20 years of volunteer leadership to the youth of the greater Bridgeport region.

The residents of Connecticut have been touched by the efforts and presence of this great individual. Mr. President, I hope that my colleagues will join me in paying tribute to Marian L. Heard for her unselfish devotion to improving the lives of others. Her boundless and energetic spirit, her deep concern for her community, for education, and for the United Way, serve as an inspiration to us all.•

LAMPF VERSUS GILBERTSON

• Mr. MCCAIN. Mr. President, the Senate recently passed S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. That legislation contained a significant provision that protects investors from fraud.

Specifically, the Senate agreed to compromise language that would protect investors who filed securities fraud cases before the Lampf decision. The Supreme Court, in a 5 to 4 decision in Lampf versus Gilbertson, held that securities fraud cases must be brought within 1 year of discovery of the fraudulent act and, at most, within 3 years of the date that the fraudulent act occurred.

Furthermore, this decision was applied to cases filed in a timely fashion prior to the decision. Many cases were dismissed as a result. S. 543 eliminates the retroactive application of the decision, and protects suits filed before the Lampf decision. Without this provision, the Lampf decision would provide a legal escape hatch for perpetrators of some of the worst securities frauds in history.

Michael Milken of Drexel Burnham Lambert, Fred Carr of Executive Life Insurance, and Charles Keating of Lincoln Savings & Loan have moved to have their cases dismissed under the Lampf decision. It's simply not fair that fraud cases of such magnitude be dismissed by an arbitrary, legal technicality. A statute of limitations should not prevent the reasonable course of justice. The 1- to 3-year statute of limitations does not provide victims of fraud adequate time to file their claims.

The banking reform legislation did not extend the statute of limitations. That is why I have decided to cosponsor S. 1533. While eliminating the retroactivity provision is a step in the right direction, more needs to be done to protect investors from fraud. I support the extension of the statute of limitations to protect investors from fraud. It is equally important that we guard against the abuse of our judicial system.

Investors clearly deserve protection. But we must also guard against opening a floodgate of meritless litigation. We must balance the legitimate rights of defendants and plaintiffs. I hope a judicious compromise can be struck that extends the statute of limitations to a 2- to 5-year rule that at the same time protects American businesses from frivolous and meritless litigation. While present law may result in what Securities and Exchange Commission Chairman Richard Breeden described as a windfall of immunity, we must guard against creating an environment that would result in a windfall of litigation.

I look forward to working with Senators BRYAN, DOMENICI, and MCCONNELL to equitably resolve this contentious issue.•

THE RETIREMENT OF OGLESBY, IL, POLICE CHIEF RUDY GANDOLFI

• Mr. DIXON. Mr. President, I rise today in honor of Rudy Gandolfi, Oglesby, IL, chief of police for the last 16 years. Chief Gandolfi spent 33 years on the Oglesby Police Force overall, and his retirement marks the end of a era in Oglesby.

Chief Rudy was not your average police chief. He concentrated his efforts not on the negative aspects of police work, but on the positive aspects. Crime prevention and community relations were what were important to him. Stories have been told of the chief arresting people and having those same people turn right around and praise him for his patience, his fairness and for treating them with dignity. In Oglesby, nobody commanded love and respect like Police Chief Gandolfi.

He was an extraordinary police chief, but he will probably be best remembered for his great contributions to the community outside of his duties as a police officer and police chief. For 39 years he has coached youth baseball in Oglesby. For 33 years he has been the director of the youth B.B. Gun Club; an organization which he founded. He also founded the "Just Say No" to Drugs Fun Day Program. This program, which started as a small scale event, he expanded to a full community project. He never turned down the opportunity to help with any community event.

The Oglesby News-Tribune recently ran an editorial which sums up the feelings of many on his commitment to the city and the people of Oglesby. It says,

While longevity is respected, it isn't really the number of years that sets Gandolfi apart

from his colleagues. Instead, it is the devotion to his duties, the respect he commanded from citizens and his work with children that have earned this police chief the distinction as one of the area's best.

Congratulations to Chief Rudy Gandolfi on an outstanding career in law enforcement. He is indeed an inspiration to us all. I wish him success and happiness in the future.●

CONGRATULATING JIM ROHACIK, CONGRESSIONAL FELLOW

● Mr. DIXON. Mr. President, I rise today to extend my heartfelt thanks and deep appreciation to Jim Rohacik, a congressional fellow who worked with me on defense issues over the past year.

Jim joined my staff after a distinguished career with the U.S. Army. As a military officer he served his country in a variety of capacities including as the principal advisor to a member of the Joint Chiefs of Staff. He also served as principal advisor to the Chief of Staff of the Army for strategic and national security policy.

Even before becoming well-versed on these policy issues, he possessed a rich and extensive background. After earning a masters degree in physics, Jim went on to be an assistant professor of quantum and modern physics at West Point. His mastery of this technical field is complimented by his firsthand knowledge of ground warfare. A holder of the Purple Heart, he served tours in Vietnam and Germany as a commander of artillery forces. Indeed, he is both an impressive scholar and a decorated veteran.

Jim helped me with many issues during his tenure in my office. His valuable assistance on the Defense Production Act, the 1992-93 national defense authorization bill and base closure issues, contributed to effective legislation. I was also able to utilize his expertise on arms control and strategic force structure in a number of important meetings and hearings.

I am sure I speak for all of those on my personal staff and those members of the Senate Armed Services Committee staff who worked with Jim when I say his enthusiasm and diligence will be sorely missed.

Thanks Jimmy, for all your tireless work. You are a great American, and I wish you continued success.●

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

● Mr. DODD. Mr. President, I rise today in support of the Convention on the Elimination of All Forms of Discrimination Against Women. The treaty symbolizes a major breakthrough in the evolution of women's rights throughout the world.

The Convention was adopted by the United Nations General Assembly in 1979 and was signed by President Carter in 1980. Although it is not the first human rights treaty to address the plight of women, it is the first to do so in such a comprehensive manner. In the past 11 years, over 100 countries have ratified the Convention. The time has arrived for the leadership of this country to demonstrate its commitment to women and ratify this treaty as well.

The United States prides itself as being a leader in the promotion and preservation of equal rights and human decency for all. We have a rich history of great struggles to improve the status of women in employment, domestic relations, health care, law and education. As early as 1862, Congress showed its commitment to ending sexual discrimination. The Fair Labor Standards Act of 1938 applied equal minimum wage standards to both men and women. The 1964 Civil Rights Act prohibited employment discrimination on the basis of sex. And the Pregnancy Discrimination Act of 1978 prohibits employment discrimination on the basis of pregnancy, childbirth or related medical conditions. Even today, in the aftermath of the debate on the Civil Rights Act of 1991, the protection and promotion of women's rights are at the forefront of the political agenda.

Unfortunately, the women's rights agenda has not yet been fulfilled. In this country and in countries all over the world, women face many challenges to their basic human dignity. Today, millions of women live in poverty, unable to care for themselves or their children. In many cultures, exploitation and violent acts are accepted forms of behavior. In the workplace, women throughout the world face unequal pay, unsafe working conditions, and limited benefits. And in many instances, limited access to health care and poor living conditions literally threaten women's lives.

It is hard to believe that in an age of democracy and progressive government, injustice against women in many countries still exists. Enactment of the Convention will create universal codes of equality that guarantee women the right to reach their full potential. The treaty recognizes that the only difference between men and women is biological. It seeks to abolish discrimination in every facet of life—cultural, political, and economic. It also emphasizes the importance of family and children, including special provisions to balance the roles of men and women.

We have made it clear that we will not tolerate discrimination on the basis of sex. Unfortunately, women are still victims of harassment, prejudice and sexual stereotypes. Ratification of this treaty would not promise women preferential treatment. Instead, it promises them the basic rights to which they are entitled as human beings. I urge the administration to act quickly on the Convention and send a signal to the world that we are ready to act on the principles we espouse.●

TRIBUTE TO CINCINNATI, OH BUSINESSMAN DON E. HARDIN

●Mr. GLENN. Mr. President, I rise today to congratulate an outstanding man and community leader on the occasion of his election to the presidency of the American Orthotic & Prosthetic Association [AOPA]. Don E. Hardin, owner and president of Tribar Orthopedic, Inc., in Cincinnati, OH will assume the AOPA presidency on November 30, 1991.

The American Orthotic & Prosthetic Association is a national membership organization representing the approximately 1,200 facilities that provide orthotic and prosthetic [O&P] patient services to the physically challenged throughout the United States. Members of the O&P field design and fit braces and prostheses that enable physically challenged individuals to overcome often serious and crippling conditions and return to productive lives.

Mr. Hardin entered the orthotic and prosthetic field in 1966 as a sales representative. Since that time, he has served the national organization in a number of positions, most recently, as vice president in 1990 and secretary-treasurer for AOPA in 1989. Previously, he was the FDA Advisory Committee chairman and a member of the Government Relations Committee. His other duties within AOPA have included being chairman of the Regulatory Advisory Committee and a member of the Strategic Planning Committee for over 6 years. He has also served as Marketing Committee chairman and as chairman of the AOPA Charity Golf Tournament.

A native of Chicago, IL Mr. Hardin has been involved in the Cincinnati community for many years. He has been married for 23 years, and is the father of two children. His daughter recently joined him in the orthotics and prosthetics field and travels extensively with her father for Tribar Orthopedic. Like other small businessmen and businesswomen throughout America, Mr. Hardin is providing an invaluable service to his community as well as supporting our Nation's economy.

The American Orthotic & Prosthetic Association has elected an able and respected leader as their president. They are fortunate to have such a leader, and I commend Mr. Hardin on the occasion of his election.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

The text of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other pur-

poses, as passed by the Senate on November 21, 1991, is as follows:

S. 1176

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 "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two members, appointed by the President, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; and

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) One member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the member appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3) and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6) and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt Securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.

CONCURRENT RESOLUTION CONDEMNING THE MASSACRE OF EAST TIMORESE CIVILIANS

The text of Senate Concurrent Resolution 77, a concurrent resolution condemning the massacre of East Timorese civilians by the Indonesia military, as agreed to by the Senate on November 21, 1991, is as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That—

(a) FINDINGS.— The Congress finds that—

(1) on November 12, 1991, Indonesian security forces killed 75 to 100, according to Department of State reports, and injured as many as 100 people when they fired on a Roman Catholic funeral procession in which demonstrators were attempting to place flowers on the grave of a youth killed by Indonesian troops on October 28, 1991, in Dili, East Timor;

(2) Indonesian soldiers also beat several foreign journalists, including two Americans from The New Yorker and Pacifica Radio, who were observing the procession;

(3) Indonesia, in violation of international law, illegally invaded East Timor in 1975, annexing the territory without consideration for the rights of self-determination enjoyed by the East Timorese;

(4) tens of thousands out of a population of approximately 600,000 died in the fighting, famine, and disease that followed Indonesia's invasion of East Timor;

(5) since Indonesia's invasion, a state of intermittent conflict continues to exist in East Timor and Amnesty International, Asia Watch, and other international human rights organizations frequently report human rights abuses, including torture, arbitrary arrest and repression of freedom of expression;

(6) the Government of Indonesia continues to restrict access by international organizations and foreign journalists to East Timor; and

(7) the United States and Indonesia have maintained close bilateral relations for the past twenty-five years, including a program of economic and military assistance which totaled $50 million in FY 1991.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the President should reassess immediately the International Military Educational Training program for the Indonesian government to ensure that these training programs are advancing effectively human rights;

(2) now that a U.S. embassy team has visited East Timor, and American ambassador to Indonesia should immediately seek to visit East Timor in order to investigate reports of the atrocity and reports of additional repression by Indonesian authorities;

(3) the President should request that a report be made available by the United Nations Special Rapporteur on Torture, who was in East Timor during the massacre, as soon as possible to the General Assembly;

(4) the President should support the immediate introduction of a resolution in the General Assembly instructing the United Nations Commission on Human Rights to appoint a Special Rapporteur for East Timor to assist in the resolution of the East Timorese conflict in pursuit of the right of self-determination by the East Timorese people;

(5) the President should request that the Government of Indonesia permit an investigation by the United Nations Special Rapporteur on Summary and Arbitrary Executions of the situation in East Timor;

(6) the President should encourage the Secretary General of the United Nations and the governments of Indonesia and Portugal, and the East Timorese to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor, and

(7) the President should request that the Government of Indonesia establish an inde-

pendent commission to investigate the cause of the atrocity and to assist the prosecution of those responsible for the massacre.

HIGH-PERFORMANCE COMPUTING ACT OF 1991

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 272.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 272) entitled "An Act to provide for coordinated Federal program to ensure continued United States leadership in high-performance computing, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, science, and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to reap fully the benefits of high-performance computing.

(4) A high-capacity and high-speed national research and education computer network would provide researchers and educators with access to computer and information resources and act as a test bed for further research and development of high-capacity and high-speed computer networks.

(5) Several Federal agencies have ongoing high-performance computing programs, but improved long-term interagency coordination, cooperation, and planning would enhance the effectiveness of these programs.

(6) A 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy, outlining a research and development strategy for high-performance computing, provides a framework for a multiagency high-performance computing program. Such a program would provide American researchers and educators with the computer and information resources they need, and demonstrate how advanced computers, high-capacity and high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

SEC. 3. PURPOSE.

The purpose of this Act is to help ensure the continued leadership of the United States in high-performance computing and its applications by—

(1) expanding Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity and high-speed National Research and Education Network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities available for use through the Network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computing systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges;

(H) invest in basic research and education, and promote the inclusion of high-performance computing into educational institutions at all levels; and

(I) promote greater collaboration among government, Federal laboratories, industry, high-performance computing centers, and universities; and

(2) improving the interagency planning and coordination of Federal research and development on high-performance computing and maximizing the effectiveness of the Federal Government's high-performance computing efforts.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the director of the Office of Science and Technology Policy;

(2) "Grand Challenge" means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources;

(3) "High-performance computing" means advanced computing, communications, and information technologies, including scientific workstations, supercomputer systems (including vector supercomputers and large scale parallel systems), high-capacity and high-speed networks, special purpose and experimental systems, and applications and systems software;

(4) "Network" means a computer network referred to as the National Research and Education Network established under section 102; and

(5) "Program" means the National High-Performance Computing Program described in section 101.

TITLE I—HIGH-PERFORMANCE COMPUTING AND THE NATIONAL RESEARCH AND EDUCATION NETWORK

SEC. 101. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—(1) The President shall implement a National High-Performance Computing Program, which shall—

(A) establish the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and

(B) provide for interagency coordination of Federal high-performance computing research, development, networking, and other activities undertaken pursuant to the Program.

(2) The Program shall—

(A) provide for the establishment of policies for management and access to the Network;

(B) provide for oversight of the operation and evolution of the Network;

(C) promote connectivity among computer networks of Federal agencies and departments;

(D) provide for efforts to increase software availability, productivity, capability, portability, and reliability;

(E) provide for improved dissemination of Federal agency data and electronic information;

(F) provide for acceleration of the development of high-performance computing systems, subsystems, and associated software;

(G) provide for the technical support and research and development of high-performance computing software and hardware needed to address Grand Challenges;

(H) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, library and information science, and computational science; and

(I) provide—

(i) for the security requirements, policies, and standards necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks, including research required to establish security standards for high-performance computing systems and networks; and

(ii) that agencies and departments identified in the annual report submitted under paragraph (3)(A) shall define and implement a security plan consistent with the Program and with applicable law.

(3) The Director shall—

(A) submit to the Congress an annual report, along with the President's annual budget request, describing the implementation of the Program;

(B) provide for interagency coordination of the Program; and

(C) consult with academic, State, industry, and other appropriate groups conducting research on and using high-performance computing.

(4) The annual report submitted under paragraph (3)(A) shall—

(A) include a detailed description of the goals and priorities established by the President for the Program;

(B) set forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, including—

(i) the Department of Agriculture;

(ii) the Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Education;

(v) the Department of Energy;

(vi) the Department of Health and Human Services;

(vii) the Department of the Interior;

(viii) the Environmental Protection Agency;

(ix) the National Aeronautics and Space Administration;

(x) the National Science Foundation;

(xi) such other agencies and departments as the President or the Director considers appropriate;

(C) describe the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for specific activities, including education, research, hardware and software development, and support for the establishment of the Network;

(D) describe the levels of Federal funding for each agency and department participating in the Program for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies; and

(E) include an analysis of the progress made toward achieving the goals and priorities established for the Program.

(b) HIGH-PERFORMANCE COMPUTING ADVISORY COMMITTEE.—The President shall establish an advisory committee on high-performance computing consisting of non-Federal members, including representatives of the research, education, and library communities, network providers, and industry, who are specially qualified to provide the Director with advice and information on high-performance computing. The recommendations of the advisory committee shall be considered in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program;

(4) whether the research and development undertaken pursuant to the Program is helping to maintain United States leadership in computing technology; and

(5) other issues identified by the Director.

(c) OFFICE OF MANAGEMENT AND BUDGET.—(1) Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget which—

(A) identifies each element of its high-performance computing activities which contributes directly to the Program or benefits from the Program; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the annual report submitted under subsection (a)(3)(A), and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the Program.

SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) ESTABLISHMENT.—As part of the Program, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other agencies participating in the Program shall support the establishment of the National Research and Education Network, portions of which shall, to the extent technically feasible, be capable of transmitting data at one gigabit per second or greater by 1996. The Network shall provide for the linkage of research institutions and educational institutions, government, and industry in every State.

(b) ACCESS.—Federal agencies and departments shall work with private network service providers, State and local agencies, libraries, educational institutions and organizations, and others, as appropriate, in order to ensure that the researchers, educators, and students have access, as appropriate, to the Network. The Network is to provide users with appropriate access to high-performance computing systems, electronic information resources, other research facilities, and libraries. The Network shall provide access, to the extent practicable, to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

(c) NETWORK CHARACTERISTICS.—The Network shall—

(1) be developed and deployed with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and research institutions and educational institutions;

(3) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high-speed data networking within the telecommunications industry;

(4) be designed, developed, and operated in a manner which promotes research and development leading to development of commercial data communications and telecommunications standards, whose development will encourage the establishment of privately operated high-speed commercial networks;

(5) be designed and operated so as to ensure the continued application of laws that provide network and information resources security measures, including those that protect copyright and other intellectual property rights, and those that control access to data bases and protect national security;

(6) have accounting mechanisms which allow users or groups of users to be charged for their usage of copyrighted materials available over the Network and, where appropriate and technically feasible, for their usage of the Network;

(7) ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network;

(8) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible, and by contracting for customized services when not feasible, in order to minimize Federal investment in network hardware;

(9) support research and development of networking software and hardware; and

(10) serve as a test bed for further research and development of high-capacity and high-speed computing networks and demonstrate how advanced computers, high-capacity and high-speed computing networks, and data bases can improve the national information infrastructure.

(d) DEFENSE ADVANCED RESEARCH PROJECTS AGENCY RESPONSIBILITY.—As part of the Program, the Department of Defense, through the Defense Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) INFORMATION SERVICES.—The Director shall assist the President in coordinating the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and computer networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation.

(f) USE OF GRANT FUNDS.—All Federal agencies and departments are authorized to allow recipients of Federal research grants to use grant moneys to pay for computer networking expenses.

(g) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Director shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) the future operation and evolution of the Network;

(3) how commercial information service providers could be charged for access to the Network, and how Network users could be charged for such commercial information services;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally funded research networks;

(5) how to protect the copyrights of material distributed over the Network; and

(6) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

TITLE II—AGENCY ACTIVITIES

SEC. 201. NATIONAL SCIENCE FOUNDATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and support basic research and human resource development in all aspects of high-performance computing and advanced high-speed computer networking;

(2) to the extent that colleges, universities, and libraries cannot connect to the Network with the assistance of the private sector, the National Science Foundation shall have primary responsibility for assisting colleges, universities, and libraries to connect to the Network;

(3) the National Science Foundation shall serve as the primary source of information on access to and use of the Network; and

(4) the National Science Foundation shall upgrade the National Science Foundation funded network, assist regional networks to upgrade their capabilities, and provide other Federal departments and agencies the opportunity to connect to the National Science Foundation funded network.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation for the purposes of the Program $213,000,000 for fiscal year 1992; $262,000,000 for fiscal year 1993; $305,000,000 for fiscal year 1994; $354,000,000 for fiscal year 1995; and $413,000,000 for fiscal year 1996.

SEC. 202. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aerospace sciences, earth and space sciences, and remote exploration and experimentation.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of the Program $72,000,000 for fiscal year 1992; $107,000,000 for fiscal year 1993; $134,000,000 for fiscal year 1994; $151,000,000 for fiscal year 1995; and $145,000,000 for fiscal year 1996.

SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

(1) perform research and development on, and systems evaluations of, high-performance computing and communications systems;

(2) conduct computational research with emphasis on energy applications;

(3) support basic research, education, and human resources in computational science; and

(4) provide for networking infrastructure support for energy-related mission activities.

(b) COLLABORATIVE CONSORTIA.—In accordance with the Program, the Secretary of Energy shall establish High-Performance Computing Research and Development Collaborative Consortia by soliciting and selecting proposals. Each Collaborative Consortium shall—

(1) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing and communications resources;

(2) promote the testing and uses of new types of high-performance computing and related software and equipment;

(3) serve as a vehicle for participating vendors of high-performance computing systems to test new ideas and technology in a sophisticated computing environment; and

(4) be led by a Department of Energy national laboratory, and include participants from Federal agencies and departments, researchers, private industry, educational institutions, and others as the Secretary of Energy may deem appropriate.

(c) TECHNOLOGY TRANSFER.—The results of research and development carried out under this section shall be transferred to the private sector and others in accordance with applicable law.

(d) ANNUAL REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act and every year thereafter, the Secretary of Energy shall transmit to the Congress a report on activities taken to carry out this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary of Energy for the purposes of the Program $93,000,000 for fiscal year 1992; $110,000,000 for fiscal year 1993; $138,000,000 for fiscal year 1994; $157,000,000 for fiscal year 1995; and $169,000,000 for fiscal year 1996.

(2) There are authorized to be appropriated to the Secretary of Energy for fiscal years 1992, 1993, 1994, 1995, and 1996, such funds as may be necessary to carry out the activities that are not part of the Program but are authorized by this section.

SEC. 204. DEPARTMENT OF COMMERCE ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

(1) the National Institute of Standards and Technology shall—

(A) conduct basic and applied measurement research needed to support various high-performance computing systems and networks;

(B) develop and propose standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to systems; and

(C) be responsible for developing benchmark tests and standards for high-performance computing systems and software; and

(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research in weather prediction and ocean sciences, particularly in development of new forecast models, in computational fluid dynamics, and in the incorporation of evolving computer architectures and networks into the systems that carry out agency missions.

(b) HIGH-PERFORMANCE COMPUTING AND NETWORK SECURITY.—Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall be responsible for developing and proposing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(c) STUDY OF IMPACT OF FEDERAL PROCUREMENT REGULATIONS.—(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations that require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors use to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary of Commerce shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated—

(1) to the National Institute of Standards and Technology for the purposes of the Program $3,000,000 for fiscal year 1992; $4,000,000 for fiscal year 1993; $5,000,000 for fiscal year 1994; $6,000,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996; and

(2) to the National Oceanic and Atmospheric Administration for the purposes of the Program $2,500,000 for fiscal year 1992; $3,000,000 for fiscal year 1993; $3,500,000 for fiscal year 1994; $4,000,000 for fiscal year 1995; and $4,500,000 for fiscal year 1996.

SEC. 205. ENVIRONMENTAL PROTECTION AGENCY ACTIVITIES.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Environmental Protection Agency shall conduct basic and applied research directed toward the advancement and dissemination of computational techniques and software tools which form the core of ecosystem, atmospheric chemistry, and atmospheric dynamics models.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of the Program $5,000,000 for fiscal year 1992; $5,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $6,500,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996.

SEC. 206. ROLE OF THE DEPARTMENT OF EDUCATION.

(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Education is authorized to conduct basic and applied research in computational research with an emphasis on the coordination of activities with libraries, school facilities, and education research groups with respect to the advancement and dissemination of computational science and the development, evaluation and application of software capabilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Education for the purposes of this section $1,500,000 for fiscal year 1992; $1,700,000 for fiscal year 1993; $1,900,000 for fiscal year 1994; $2,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.

SEC. 207. MISCELLANEOUS PROVISIONS.

(a) NONAPPLICABILITY.—Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) ACQUISITION OF PROTOTYPE AND EARLY PRODUCTION MODELS.—In accordance with Federal contracting law, Federal agencies and departments participating in the Program may acquire prototype or early production models of new high-performance computing systems and subsystems to stimulate hardware and software development. Items of computing equipment acquired under this subsection shall be considered research computers for purposes of applicable acquisition regulations.

SEC. 208. FOSTERING UNITED STATES COMPETITIVENESS IN HIGH-PERFORMANCE COMPUTING AND RELATED ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) High-performance computing and associated technologies are critical to the United States economy.

(2) While the United States has led the development of high-performance computing, United States industry is facing increasing global competition.

(3) Despite existing international agreements on fair competition and nondiscrimination in government procurements, there is increasing concern that such agreements are not being honored, that more aggressive enforcement of such agreements is needed, and that additional steps may be required to ensure fair global competition, particularly in high-technology fields such as high-performance computing and associated technologies.

(4) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner which most effectively fosters the maintenance and development of United States leadership in high-performance computers and associated technologies in and for the benefit of the United States.

(5) It is appropriate for Federal agencies and departments to use the funds authorized for the Program in a manner, consistent with the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), which most effectively fosters reciprocal competitive procurement treatment by foreign governments for United States high-performance computing and associated technology products and suppliers.

(b) ANNUAL REPORT.—

(1) REPORT.—The Director shall submit an annual report to Congress that identifies—

(A) any grant, contract, cooperative agreement, or cooperative research and development agreement (as defined under section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) made or entered into by any Federal agency or department for research and development under the Program with—

(i) any company other than a company that is either incorporated or located in the United States, and that has majority ownership by individuals who are citizens of the United States; or

(ii) any educational institution or nonprofit institution located outside the United States; and

(B) any procurement exceeding $1,000,000 by any Federal agency or department under the Program for—

(i) unmanufactured articles, materials, or supplies mined or produced outside the United States; or

(ii) manufactured articles, materials, or supplies other than those manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, under the meaning of title III of the Act of March 3, 1933 (41 U.S.C. 10a-10d; popularly known as the Buy American Act) as amended by the Buy American Act of 1988.

(2) CONSOLIDATION OF REPORTS.—The report required by this subsection may be included with the report required by section 101(a)(3)(A).

(c) REVIEW OF SUPERCOMPUTER AGREEMENT.—

(1) REPORT.—The Under Secretary for Technology Administration of the Department of Commerce (in this subsection referred to as the "Under Secretary") shall conduct a comprehensive study of the revised "Procedures to Introduce Supercomputers" and the accompanying exchange of letters between the United States and Japan dated June 15, 1990 (commonly referred to as the "Supercomputer Agreement") to determine whether the goals and objectives of such Agreement have been met and to analyze the effects of such Agreement on United States and Japanese supercomputer manufacturers. Within 180 days after the date of enactment of this Act, the Under Secretary shall submit a report to Congress containing the results of such study.

(2) CONSULTATION.—In conducting the comprehensive study under this subsection, the Under Secretary shall consult with appropriate Federal agencies and departments and with United States manufacturers of supercomputers and other appropriate private sector entities.

(d) APPLICATION OF BUY AMERICAN ACT.—This Act does not affect the applicability of title III of the Act of March 3, 1933 (41 U.S.C. 10a-10d; popularly known as the Buy American Act), as amended by the Buy American Act of 1988, to procurements by Federal agencies and departments undertaken as a part of the Program.

Amend the title so as to read: "An Act to provide for a coordinated Federal program to ensure continued United States leadership in high-performance computing.".

Mr. HOLLINGS. Mr. President, as an original cosponsor of S. 272 as introduced, I rise to support the version of S. 272, the High-Performance Computing Act of 1991, before us today. This is an important piece of legislation, which will help improve the coordination of the Federal Government's diverse computing research programs.

The bill before us represents a House-Senate compromise worked out by the Senate Commerce Committee, the Senate Energy Committee, the House Science Committee, and the House Education and Labor Committee. Working with the administration, we have crafted a bipartisan bill that will help ensure that the United States maintains its lead in the development and application of leading-edge computer technology.

The computer industry is one of the fastest growing segments of the U.S. economy, one that has generated tens of thousands of new jobs in the past few years. Even more importantly, computer technology has helped to improve the productivity and competitiveness of workers throughout the economy. Computers are used today by accountants, auto mechanics, grocery clerks, engineers, farmers—almost everyone—and the number of applications for computers increases daily.

Today's personal computers are more powerful than the best computers available 20 years ago. One of the reasons for the incredibly rapid advances in computer technology since the 1960's is the large Federal investment in computer research and development. Federal research grants funded the development of the first national computer network, some of the most commonly used computer software, and much of the fundamental research that led to development of today's personal computers and supercomputers. S. 272 is intended to continue this important investment, authorizing additional money for computing research and development that will fund the development of the next generation of computers, computer networks, and computer software.

In addition, this bill will provide necessary coordination of the various agencies doing computer research and development. The High-Performance Computing Program established by S. 272 will involve the National Science Foundation, the National Aeronautics and Space Administration, the Defense Advanced Research Projects Agency, the Department of Energy, the Department of Commerce, and a number of other agencies. The White House Office of Science and Technology Policy [OSTP], whose mission is to oversee multiagency research programs, will be responsible for ensuring that the computing research activities of these agencies support each other and mesh into a single coherent program. The Director of OSTP, Dr. Allan Bromley, clearly has the experience in coordinating successfully research in a number of areas. This kind of coordination is essential if different agencies, with different missions, are to work effectively together toward a common goal.

S. 272 has strong support from many different groups. As expected, the computer industry and the telecommunications industry strongly support this bill, and there are also strong supporters in the pharmaceutical industry, the aerospace industry, the information industry, and the manufacturing sector. I have received letters from librarians, scientists, teachers, doctors, senior citizens, and others, all expressing their support and enthusiasm for this bill. The reason for this broad support is clear—the technology developed and deployed under this bill will benefit all Americans, in every State across the Nation.

The coordination envisioned by S. 272 resembles that established in legislation which I authored last Congress, and which became law last year, dealing with global change research. This approach also can be followed for other technology initiatives dealing with other critical technologies. This year, I have introduced, among other technology competitiveness initiatives, S. 1329, the Federal Technology Strategy Act, to strengthen Federal efforts for the development and deployment of critical advanced technologies like advanced manufacturing, advanced materials, information technology, and biotechnology. A few weeks ago, the Commerce Committee approved S. 1330, the Manufacturing Strategy Act of 1991, which I also introduced to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies. Like S. 272, these bills will strengthen the U.S. economy by ensuring that U.S. companies have access to the advanced technology they need to compete in world markets without foreign competitors.

Mr. President, in closing, I commend Senator GORE and Chairman BROWN of the House Science Committee, who have worked hard to craft a sound program. I also acknowledge the important role played by Dr. Paul Huray, senior vice president of the University of South Carolina, who has helped to shape the High-Performance Computing Program established under this bill. We are proud of his contributions to this important national initiative.

This is a good bill that will have important implications for the future of U.S. technology. I urge my colleagues to support it.

Mr. WALLOP. Mr. President, I rise in support of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

This legislation establishes a comprehensive, 5-year Federal high-performance computing research and development program, and provides for the creation of a National Research and Education Network.

This legislation will help the United States advance the state of the art in high-performance computing, and thereby our competitive edge. It does so by directing the President to coordinate ongoing high-performance computing research and development activities by Federal departments and agencies.

There are some differences between S. 272 as passed by the Senate on September 11, 1991, and S. 272 as amended and passed by the House on November 20, 1991, the legislation which is now before the Senate, but these differences are not particularly significant.

For the purposes of the legislative history of the High-Performance Com-

puting Act of 1991, it should be noted that S. 272 as passed by the Senate on September 11, 1991, was a melding of the provisions contained in S. 343 as reported by the Committee on Energy and Natural Resources (S. Rept. No. 102-64), and S. 272 as reported by the Committee on Commerce, Science, and Transportation (S. Rept. No. 102-57).

Although the Committee on Energy and Natural Resources has jurisdiction over many elements of this legislation, to accommodate the interests of the Senate Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources agreed to merge together the two bills and have the Senate pass only one bill, S. 272. Accordingly, the complete legislative histories of both S. 343 and S. 272 are to be considered when interpreting congressional intent expressed in the High-Performance Computing Act of 1991.

Mr. President, the High-Performance Computing Act of 1991 is the result of a joint effort between the administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Commerce, Science and Transportation, and the House Committee on Science, Space, and Technology. The administration and these three congressional committees have worked together long, hard, and cooperatively to fashion this legislation.

The pending legislation is especially important to the future of the United States' economy because high-performance computing has become an integral part of every aspect of modern life. For example, scientific investigation, product design, and manufacturing are now all heavily dependent on supercomputers. Thus, as is stated in the act's first finding, advances in computer science and technology are vital to the Nation's prosperity, national and economic security, industrial production, engineering and scientific advancement.

Although the United States has led the world in the development and use of high-performance computers, this lead is now being challenged by foreign competitors and it won't exist much longer if we do not take action. The legislation before the Senate is the kind of action we need.

It is important that the executive branch develop and implement, through this generic authorizing legislation, an appropriate Federal role in the promotion of high-performance computing and networking. Failure to do so would weaken our defense posture, it would weaken our competitive edge in the international marketplace and it would weaken our ability to achieve scientific advancements ahead of our international competitors. That would clearly be unacceptable.

For the benefit of the Senate and for the purpose of amplifying and clarifying Congress' intent in the High-Performance Computing Act of 1991, I would like to describe certain of its provisions.

The act establishes a 5-year Federal high-performance computing program [program] which consists of three key elements. One, it requires the President to establish goals and priorities for Federal high-performance computing research and development. Two, it requires the President to provide for interagency coordination of Federal high-performance computing research and development. And three, it creates a high-performance computer network, referred to in the legislation as the National Research and Education Network [NREN].

The legislation also contains numerous other provisions requiring certain Federal departments and agencies to undertake, or to continue to take, specified activities. Some of these are to be undertaken as part of the program, whereas others are to be taken in accordance with the program. As is always the case, activities undertaken pursuant to the act are subject to appropriations.

The most important feature of the High-Performance Computing Act of 1991, and perhaps the most significant improvement over certain of the act's parent bills, is its provisions which specifically give the President, and not a particular Federal department, agency, or any other person, full authority and responsibility for developing and implementing the program. Like S. 343, as reported by the Energy and Natural Resources Committee, the act does not designate by law a specific Federal department or agency as a lead agency for the program. If such designation is to be made, it is left to the President's discretion. It was decided to leave this matter entirely in the President's hands because over time circumstances may change, and what might be appropriate today might not be appropriate tomorrow. Thus, no agency is by law established as a lead agency or given authority to direct the activities of other agencies. Only the President, pursuant to his constitutional duties, has such authority.

Thus, within the context of the high-performance computing program establishing by this act, the President will retain full discretion to direct appropriate Federal agencies to undertake such activities as may be necessary to carry out the act's requirements. This gives the President the authority and flexibility necessary to implement and make changes in the leadership and management of the program as may be necessary to ensure that it is undertaken in the most effective and efficient manner.

Section 101(a)(1) confers exclusively upon the President the authority and the responsibility to implement the high-performance computing program, including: one, the establishment of the goals and priorities for Federal high-performance computing research, development, networking, and other activities; and two, the interagency coordination of Federal high-performance computering research, development, networking, and other activities. Because the coordination role of the OSTP Director provided for by section 101(a)(3)(B) does not give the OSTP Director any authority to direct the activities of Federal departments and agencies pursuant to this act—that is reserved exclusively to the President—the OSTP Director cannot be held accountable for the failure of any Federal department or agency to carry out activities required by the act. Federal departments and agencies are themselves directly responsible and accountable for their activities pursuant to this act.

The coordination role for the OSTP Director envisioned by section 101(a)(3)(B) is that of helping to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other in order that such activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies pursuant thereto.

Section 101(b) requires the establishment of a high-performance computing advisory committee to provide advice to the OSTP Director on the high-performance computing program. Nothing in this section precludes the use of an existing advisory committee to satisfy this requirement.

Section 102(a) requires the establishment of a national research and education computer network [NREN] which shall be capable of transmitting data at one gigabit per second or greater by 1996. The requirement that the named Federal agencies support the establishment of the NREN is subject to, and subordinate to, existing and future agency mission requirements. The listing in a nonalphabetical order in section 102(a) of some of the Federal agencies and departments required to support the NREN is not be taken to imply that any particular agency is more or less responsible for supporting the establishment of the NREN, or has any superior or inferior position with respect to the NREN.

The statement is section 102(a) that the NREN link research and educational institutions, government, and industry "in every State" is to be taken as a goal, not a requirement to be read literally. Similarly, the requirement of section 102(b) that "Federal agencies shall work with State and

local agencies, libraries, educational institutions and organizations, private network service providers, and others in order to ensure that researchers, educators, and students have access, as appropriate, to the Network," is a goal of the legislation, not a requirement. The words "to ensure" in this provision are not to be read literally as a specific statutory requirement.

The NREN created by this legislation is intended to enable government, industry, researchers, the higher education community and others to link together on a computer network in order to exchange information and data. Although Federal agencies and departments can connect agency and department-owned or leased networks to the NREN—and even make them part of the NREN—they will retain the total discretion to connect or disconnect as may be required by agency mission requirements, or for any other reason. Thus, even if any agency's network becomes the sole means by which others are able to access the NREN, the agency will retain full discretion to disconnect from the NREN notwithstanding how it may affect the other NREN users. This is made absolutely clear in section 102(c)(7) which provides that the NREN shall "ensure the interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network".

Although section 102(d) directs the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches and protocols needed to develop the network, this not to be read as giving DARPA and exclusive role within the Federal Government for this type of research and development; nor is this provision to be read as giving DARPA a "lead" role. It simply directs DARPA to undertake certain kinds of activities.

Section 207(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability of Federal contract law. This is made clear in section 207(b) by introductory phrase "In accordance with Federal contracting law. * * * " Thus, Federal contracting law will continue to apply to the procurement of all goods and services under the high-performance computing initiative, including procurement of supercomputers.

Section 208(d) does not, nor is it intended to, modify or amend the applicability or nonapplicability to title III of the act of March 3, 1933, as amended by the Buy American Act of 1988. It is merely a congressional policy statement restating existing law.

Mr. President, with these understandings by the Senate, I support the passage of the High-Performance Computing Act of 1991, S. 272 as amended by the House.

Mr. GORE. Mr. President, I rise in support of S. 272, the High-Performance Computing Act of 1991. This bill was first passed by the Senate on September 11 by voice vote. A companion bill, H.R. 656, passed the House on July 11.

The bill before us represents a House-Senate compromise which incorporates provisions of both bills. This version has bipartisan support in the House and the Senate, as well as in the administration.

The purpose of S. 272 is simple—to help ensure that the United States maintains its lead in advanced computer technology. Since World War II and the invention of the first electronic computer, the United States has led the world in developing and applying new computer technology. Our computer scientists laid the groundwork for the Information Revolution. Today, U.S. scientists and engineers generate new breakthroughs in computer design every year. Their creativity has ensured United States predominance in supercomputing and high-speed computer networking, two critical technologies transforming how research is conducted, products are designed, and business is transacted.

S. 272 would roughly double the amount of funding for high-performance computing during the next 5 years. Last year, the Federal Government spent $489.4 million on high-performance computing research and development. Under this bill, by 1996 that number would rise to approximately $1 billion each year. This investment is essential if U.S. scientists and engineers are to have the resources they need to develop and use more powerful supercomputers, more sophisticated software, and faster computer networks. Both the Europeans and the Japanese understand the incredible potential of supercomputing and are allocating hundreds of millions of dollars in an effort to catch up with the United States. And, according to a recent GAO report, High-Speed Computer Networks in the United States, Europe, and Japan, the Europeans and Japanese clearly recognize the importance of high-speed networks, and have plans and projects underway to enhance the speed and capability of these networks. In many areas, like high-speed networking and vector processor supercomputers, we may have only a 1- or 2-year lead. We must not lose that lead. This race is not winner-take-all, but it might as well be. Whoever is first to develop and effectively apply this technology will reap huge rewards in dozens of high-tech fields, from biotechnology to aerospace, from advanced materials to fusion energy. That translates directly into thousands and thousands of jobs—good jobs—which would otherwise go to our foreign competitors.

According to another GAO report, Industry Uses of Supercomputers and High-Speed Networks, U.S. companies are using supercomputing to increase their profits by millions of dollars. But that is not all that is at stake.

Supercomputing can help us better predict the weather, reduce air pollution, and improve health care.

Perhaps the most exciting part of the legislation pertains to the National Research and Education Network [NREN], a national, high-speed computer network that will connect millions of computer users at colleges, universities, Federal laboratories, libraries, hospitals, and businesses in every State. This network will be capable of transmitting billions of bits of data per second, enabling users to sit at their desks and use supercomputers thousands of miles away, access computer databases, and teleconference with colleagues. Linking powerful computers and computer-controlled research equipment to form a national colaboratory will enable researchers to work with others around the country as if they were across the hall. Creation of "Digital Libraries," huge electronic databases accessible over the network, will help students, teachers, doctors, and workers find the information they need without leaving their office.

The NREN will build on the NSFNET and other Federal, State, and private networks that make up the Internet, a research and education network which today links more than 1 million people. Today, the backbone of the NSFNET, which carries most of the network's traffic, runs at 45 megabits per second; the NREN will be at least 25 times faster and serve many more people. We will need gigabit speeds, 1 billion bits per second, to meet the rapidly growing demand for bandwidth on the network. The bill calls for deployment of a gigabit-per-second backbone by 1996. This is an ambitious goal, but without such speeds we will end up with what Dr. John Connolly, who runs the supercomputer center at the University of Kentucky, calls a graphic jam.

The NREN will enable some of America's best technical talent to experiment with high-speed networks, to develop new, exciting uses for such networks, and to demonstrate the benefits that networking can provide. In a way, the NREN is a national demonstration project that will spur the private sector investment needed to deploy a ubiquitous, fiber-optic network reaching every home, office, school, and factory in the country. Unfortunately, the private sector has not committed to building such a network because they are not convinced of its potential. The NREN will demonstrate what gigabit networks can do and generate the public demand for such services. When the general public sees what NREN users can do, they are going to want similar services in their home and office.

This bill is the first step toward meeting that need. It will fund develop-

ment of high-speed networking technology and demonstrate its utility. Equally important, it will fund development of applications for networks and train people to develop, run, and use them.

But other steps will be needed. Today's telecommunications policies are designed for copper wire networks carrying voice traffic. We have to recognize that fiber optic computer networks are fundamentally different. We need to upgrade our policies as we upgrade our technology. I know that many of my colleagues, including Senators HOLLINGS, INOUYE, and BURNS on the Commerce Committee recognize that, and I look forward to working with them to design a national tele, communications policy for the 1990's and beyond.

Without new policies we will be unable to build the information infrastructure that the United States will need to compete in the next century. It used to be that a nation's transportation infrastructure determined success in international economic competition. Nations with deep-water ports did better than nations unable to exploit the technology of ocean transportation. Canals, railroads, highways, water and sewer systems—the list is a long one—were infrastructure investments found, through experience, to provide tremendous leverage for improving a nation's competitiveness.

Today transportation is less important compared to other factors, such as the ability to move information and to increase the value of this information. At the same time, however, we are confronted with massive and rapidly multiplying quantities of information. We are forced to deal with what I call exformation—accumulated surpluses of data that we know exist but are outside our conscious awareness. Advanced networking technology developed by this bill, coupled with intelligent, forward-looking telecommunications policies, can help us sort through that information and use it to improve the standard of living of all Americans.

The bill before us today has a long history. I personally have been working for almost 15 years to advance American computer technology and build a national high-speed, fiber-optic network. I held hearings in the House long before fiber optics had really emerged from the laboratory. Five years ago, I introduced legislation requiring that the administration evaluate the potential of supercomputing and high-speed networking. The White House Office of Science and Technology Policy [OSTP] responded in late 1987 with a report entitled, "A Research and Development Strategy for High-Performance Computing." The report called for dramatically increasing funding for high-performance computing. Unfortunately, the administration did not endorse the strategy. As a matter of fact, it took the administration more than 3 years to recognize the need for such an initiative.

In the meantime, I introduced the High-Performance Computing Act, and for the last 3 years have been working to build the support, both in Congress and elsewhere, needed to get it enacted. Last year, the Senate passed the bill but unfortunately it was blocked in the House by a few key Republicans. This year, I introduced the bill for a third time. A few weeks later, the administration, in its annual budget request, endorsed the program established by the bill. Now, thanks to the support of my colleagues in the House and Senate, we are about to send the bill on to the President.

This bill is a complex one, involving many different agencies, and thus several different congressional committees. In the Senate, both the Senate Commerce Committee and the Senate Energy Committee contributed to S. 272. The Energy Committee reported S. 343, which defines the Department of Energy's part of the High-Performance Computing Program. That bill was merged with S. 272, a Commerce Committee bill that outlined the program and laid out the roles of OSTP, the National Science Foundation, the National Aeronautics and Space Administration [NASA], and the Department of Commerce. The Commerce Committee and the Energy Committee worked together to assemble a coherent, multiagency program.

At the same time, in the House, the Science Committee and the Education and Labor Committee were working on H.R. 656, which Congressmen GEORGE BROWN, FREDERICK BOUCHER, TIM VALENTINE, And others had introduced in January. Their bill was quite similar to S. 272, but included additional provisions on the roles of the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Department of Education. The House passed H.R. 656 on July 11. The Senate passed S. 272 unanimously on September 11. Since then, we have been working with the House to come to an agreement on a compromise version acceptable to both sides.

This is a very important bill, one that will provide huge benefits to Americans everywhere. Not surprisingly, it has broad support, from researchers, educators, librarians, and businessmen. The computer industry, the telecommunications industry, the electronic information industry, and hundreds of high-tech companies in other sectors are united behind this bill. Within the administration, dozens of scientists and engineers have worked for years to promote high-performance computing and convince their bosses and OMB to fund the High-Performance Computing Program.

Here in Congress, Senators HOLLINGS, DANFORTH, and PRESSLER on the Commerce Committee, and Senators JOHNSTON, DOMENICI, and WALLOP on the Energy Committee, have helped refine this legislation and shape the High-Performance Computing Program. Their help and support has been matched by the efforts of Representatives BROWN, WALKER, BOUCHER, and VALENTINE on the Science Committee. I thank them and my colleagues for their support of this legislation.

Mr. President, I wish to take only 30 seconds to thank my colleagues for this, the final passage of the High-Performance Computing Act which establishes a nationwide network of information superhighways. It has now cleared both the House and the Senate. It is on the way to the White House. I hope and trust the President will sign it.

Again I thank my colleagues.

Mr. JOHNSTON. Mr. President, today, the Senate is considering S. 272, the High-Performance Computing Act of 1991, which is an amended version of that bill passed by this body in September. S. 272 sets out a solid Federal research program in high-performance computing that will help this country remain competitive in the world marketplace. What we are considering today represents a compromise reached between the House and the Senate on this very important issue.

The United States has led the world in the development of high-performance computing. The technology was developed in this country and we continue to lead in this area—for now. But that lead is being challenged. Some estimate that the Japanese will dominate the supercomputer market in the 1990's. Yet, the Japanese did not enter the field of high-performance computing until 1983. Today, outside of the United States, Japan is the single biggest market for, and supplier of, supercomputers.

The United States needs an integrated, cooperative program among industry, universities and government in supercomputing. It has been estimated that a modest Federal investment in high-performance computing would result in a $200 to $500 billion increase in the Nation's gross national product over a 10-year period. Furthermore, such an investment will help us to meet the challenge of foreign competition. The legislation before the Senate today will set the programs in motion to make that happen.

The President in his fiscal year 1992 budget requested an increase of almost $150 million for an interagency research and development initiative called Grand Challenges: High-Performance Computing and Communications. That initiative is to be congratulated. It represents a significant step toward assuring a continued lead role for the United States in high-performance computing. But we can do more. We need a significant long-term com-

mitment to a national high-performance computing program if this initiative is to be successful. This act will do that. It will commit the Federal Government to a national high-performance computing initiative for 5 years. Such a commitment will enhance significantly our nation's competitive position in the area of supercomputing.

The High-Performance Computing Act of 1991 is the result of the combined efforts of the Administration, the Senate Committee on Energy and Natural Resources, the Senate Committee on Science, Commerce and Transportation, and the House Committee on Science, Space and Technology. We have all worked closely in crafting this language.

I want to thank the members of the Commerce Committee, in particular Senator HOLLINGS and Senator GORE, who have worked so hard on this issue. Senator WALLOP and Senator DOMENICI, who serve with me on the Energy and Natural Resources Committee, have also been instrumental to this process. Without the help of my colleagues, we would not be at this critical juncture in the consideration of the High-Performance Computing Act of 1991.

There are some differences between S. 272 as originally passed by the Senate and the Act before us today. Many of the changes are stylistic rather than substantive. However, some of these changes need a note of explanation.

There are two titles to the Act. Title I directs the President to implement a national high-performance computing program, to set out the goals and priorities for Federal high-performance computing research, development, and networking activities, and to provide for coordination of those activities.

While the President will identify the activities needed to be carried out under the program, the agencies themselves will perform the activities. Nothing in this legislation gives one agency authority to direct the high-performance computing activities of any other agencies. Similarly, the agencies will be held accountable for the failure to carry out the activities set out in the program.

The coordination function is limited to identifying Federal agency high-performance computing activities, pointing out overlapping efforts, and making suggestions as to what new high-performance computing activities might be undertaken as part of the program. It is the President, however, who will decide what activities to pursue and will implement those activities through the agencies.

This approach will ensure that the Federal strategy is built on agency strengths by giving the appropriate agency the responsibility to carry out activities in areas of demonstrated capability. It also will ensure that the strengths of the other agencies and departments are integrated where appropriate. No agency is locked into a lead role or given authority over any other agency. The President may realign agency roles and responsibilities as agencies' needs or capabilities change.

Title I also establishes an advisory committee consisting of representatives from industry and the academic community to provide the Director with advice on the high-performance computing program. This provision does not, however, require the President to create an entirely new advisory body. This provision allows the President to consider existing advisory bodies to fulfill this purpose.

Title I also establishes a multigigabit-per-second national research and education computer network. This network will link government, industry, and the academic community. Computer users at universities, Federal laboratories, and industry research centers will have access to supercomputers, computer data bases, and other research facilities. The network will be unequaled anywhere in the world.

We intend that the Federal network act as a catalyst for a much larger effort by the nation as a whole. As services over the network and the number of users increase, we expect that the private sector will begin to demand more and more from the network. We expect that universities and private industry will come to rely more and more on the network and will eventually be willing to fund the network itself or at least large portions of it.

Initially, the Federal agencies and departments will work together to connect, expand, and upgrade their individual networks. Existing user communities of Federal networks will be expanded. New user communities will be brought into these networks. Network speeds and capabilities will be upgraded as the results of research carried out under this legislation come to fruition. Eventually, a national network will be in place, operating at over 1 billion bits of data per second. The network will continue to grow, becoming faster and faster, and connecting more and broader user communities. It will become much like the telephone system we have in place today.

At the same time, each agency will be free to operate its own network to meet the specific needs and missions of that agency. To the extent an agency can contribute to the national network, it can do so. To the extent individual agency mission needs require autonomy from the national network, that autonomy is preserved.

This national network can only succeed as a cooperative effort of all the interested agencies. Each of these agencies must be intimately involved in the process—now and as the network continues to develop. We do not know what the network will look like in the coming years. Technology to develop the network envisioned by this legislation is still being developed. The legislation, therefore, must allow sufficient flexibility to meet the needs of the network as it evolves. It would not be prudent to create a rigid or overly burdensome management structure at this juncture, as might occur by vesting the management of the network in a single agency. It is for that reason that the legislation before us leaves the responsibility with the President to establish and oversee the network as it evolves.

We understand that the President has already created a Federal Network Council to oversee the evolution, operation, and management of the network. The Council is composed of representatives from all of the federal agencies. The Council is advised by a panel of distinguished individuals from industry, the universities, and the Federal laboratories. We think, at least initially, that this is the proper way to begin the establishment of this network. As the process moves forward it may become apparent that new management mechanisms are needed. The legislation allows the President to adapt to these changes. At any point in the process the President can take a fresh look at the future of computer networks in the United States. The authority to structure the network as he sees fit provides the President with an opportunity to devise a network that meets national needs, now and in the future.

The legislation requires the Department of Defense, through the Defense Advanced Research Projects Agency [DARPA], to support research and development of advanced fiber optics technology, switches, and protocols needed to develop the network. This requirement is not intended, however, to create a role for DARPA in this area of research and development that is any greater than any other agency qualified to perform such research.

Title II of the act authorizes activities to be carried out under this initiative by the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Commerce, the Environmental Protection Agency, and the Department of Education. It is likely that the President will recommend other activities and roles for these and other agencies in the National High-Performance Computing Program. That would not be precluded by the act and would, in fact, be welcomed.

Section 201 authorizes activities of the National Science Foundation for the high-performance computing program. This section states that the National Science Foundation has primary responsibility for connecting colleges, universities, and libraries to the national network. Historically, the National Science Foundation has provided assistance to colleges, universities, and

the library community to meet their advanced computing needs. This does not mean, however, that other Federal agencies should no longer provide assistance to users of agency networks that are connected to the national network. Rather, an individual agency, such as the Department of Energy or the National Aeronautics and Space Administration should continue to support the user communities that need access to its network.

Similarly, the legislation provides for the National Science Foundation to serve as the primary source of information on how to access the network. The National Science Foundation should provide information to those who have nowhere else to turn for such information. Any agency, such as the Department of Energy, that provides users with information on its network should continue to provide this information, and may expand its information services.

Section 203 is based on S. 343, as reported by the Committee on Energy and Natural Resources and incorporated in the Senate-passed version of S. 272 on September 11, 1991. Section 203 establishes for the Department of Energy a strong role in the national high-performance computing initiative. The Department of Energy would be one of several equals within the high-performance computing program established by this legislation.

The Department of Energy has historically had a key role in high-performance computing. The department and its laboratories are in a position to help maintain U.S. leadership, strengthen the U.S. computing industry, and encourage deployment of high-performance computing in analyses, design, concurrent engineering, and manufacturing for U.S. industry. In the past, the Department has fulfilled this role through its support of fundamental science and through the nuclear weapons research, development, and testing program. The role of the nuclear weapons development program is changing rapidly today. The Department's contributions now include a much broader spectrum of activities from the human genome project to enhanced oil recovery. With these new applications, the Department has a significant role to play in the continued development of high-performance computing.

The department's laboratories have become the world's most demanding, sophisticated, and experienced users of supercomputers. Manufacturers of high-performance computers routinely send new prototype computers to these laboratories for testing. The laboratories help the manufacturer identify problems, find solutions for those problems, and write the unique software packages required by supercomputers.

This legislation builds on that proven relationship between industry and the Department of Energy. The Secretary is directed to establish collaborative consortia composed of national laboratories and other Federal laboratories or agencies, educational institutions, and industry. The consortia will undertake basic research and development of high-performance computing hardware, software, and networks. The consortia will carry out research directed at scientific and technical problems that require the application of high-performance computing resources.

The Department carries out extensive high-performance computing activities. Some of these activities will be part of the President's program. Some of them will not. This legislation directs the Secretary to establish high-performance computing collaborative consortia in accordance with the President's program. The consortia, or their activities, need not be part of the program but only consistent with the program.

Section 207 in title II, Miscellaneous Provisions, makes clear that classified activities are not affected by this amendment. This section also makes clear that Federal agencies may procure prototype machines commonly referred to as paper machines.

Section 208(d) does not, nor is it intended to, modify or amend the applicability of or nonapplicability of title III of the act of March 3, 1933, as amended by the Buy America Act of 1988.

Mr. President, with these understandings by the Senate, I urge my colleagues to support the High-Performance Computing Act of 1991.

Mr. JOHNSTON. Mr. President, for the understanding of the Senate of S. 272, I would like to clarify the role of the President and the White House Office of Science and Technology Policy [OSTP] in coordinating the program.

I would like to engage my colleague, Senator HOLLINGS, the chairman of the Senate Committee on Commerce, Science, and Transportation in a brief colloquy on this matter to be sure that the Senate fully understands S. 272.

The legislation before us today states that the President shall implement a national high-performance computing program and provide for coordination of the activities set out in the program. The statutory language also gives the Director of the OSTP a coordination role in the program. I want to make sure it is clear what is meant by that statutory language. Does the Senator from South Carolina agree with me that this coordination role given to the Director does not grant the OSTP the authority to tell an agency how to run its supercomputing programs or other agency activities?

Mr. HOLLINGS. Mr. President, I would like to tell my distinguished colleague from Louisiana, the chairman of the Committee on Energy and Natural Resources, that he is absolutely correct. S. 272 does not give the Director of the OSTP authority to tell an agency how to run its supercomputing programs or any other activities. The coordination role given the Director by S. 272 is that the OSTP should identify agency activities regarding high-performance computing activities, point out overlapping efforts, and make suggestions to the agencies as to what new activities might be undertaken as part of the program.

The coordination role for the OSTP Director envisioned by this act is that of helping the President to ensure that the appropriate Federal departments and agencies discuss and coordinate their activities with each other so their activities are in accordance with the program as established and implemented by the President. Actions taken by the OSTP Director to coordinate agency activities will be pursuant to the program as established and implemented by the President. At all times the Director acts at the direction of the President. Again, it is the President, and not the OSTP Director, who is responsible for the program and for the activities of Federal departments and agencies taken pursuant to the program. It is clear that the President is ultimately responsible for the program.

Mr. JOHNSTON. Mr. President, I would like to thank my colleague from South Carolina for clarifying that point. But, I would also like to ask him to what extent the OSTP will be held accountable for the failure of activities established in the President's program to be carried out?

Mr. HOLLINGS. Mr. President, the answer to the question of the Senator from Louisiana is that the OSTP Director will not be held at all accountable for the failure of agencies to carry out their activities under the program. The authority to establish and implement this program is conferred upon the President, and it is the President's responsibility to ensure that it is done. The President will decide what activities to pursue amd assure the proper implementation of these activities by the agencies and OSTP.

This act does not give the Director any authority to direct the activities of Federal departments and agencies under this program. That is reserved exclusively to the President. Each Federal department and agency is responsible and accountable for its activities taken pursuant to this Act.

In fact, the Director derives authority to coordinate programs from the Science and Technology Policy, Organization, and Priorities Act, which created OSTP. That act states that the Director of OSTP shall "assist the President in providing general leadership and coordination of the research and development programs of the Federal Government." While S. 272 gives the Director new responsibilities, such

as reporting to Congress on the implementation of the High-Performance Computing Program, this act does not give the Director any more authority to coordinate the program than is already provided by the Science and Technology Policy Act.

In summary, the Director facilitates; he does not dictate. It is the head of the agency, not the Director of OSTP, who decides how best to fulfill the mission of the agency.

Mr. JOHNSTON. I thank my colleague for clarifying these points with me.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 256, H.R. 848, relating to the Little Bighorn Battlefield Monument.

The PRESIDING OFFICER. The clerk will report the bill by the title.

The bill clerk read as follows:

A bill (H.R. 848) entitled the "Little Bighorn Battlefield National Monument."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1428

(Purpose: To extend for 19 months the restrictions on alienation of Settlement Common Stock of Alaska Native Corporations.)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI proposes an amendment numbered 1428.

Mr. STEVENS. 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:

Insert the following new title at the end of the bill:

TITLE III

SEC. 301. EXTENSION OF ALIENABILITY RESTRICTIONS ON SETTLEMENT COMMON STOCK.—Section 37 (a) of P.L. 92-203, the Alaska Native Claims Settlement Act, (43 U.S.C. 1629c(a)) is amended by striking "December 18, 1991." and inserting in lieu thereof "July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.".

Mr. STEVENS. Mr President, this amendment, which I offer on behalf of myself and my distinguished colleague from Alaska, Senator MURKOWSKI, is the product of extensive consulation among the members of the Alaska congressional delegation, leaders of the Alaska Native community, and the leadership of the authorizing committees in both the House and Senate. It is intended to give Congress and the native community much needed breathing room to deal with a complex issue that bears directly on the viability of the 1971 native land claims settlement.

Congress established village and regional corporations throughout Alaska to manage assets received by natives in the settlement. Recently, a village corporation in southeast Alaska launched an effort to take over the regional corporation against the will of the regional corporation's board of directors.

This unexpected development raises difficult questions about the future of the 1971 settlement. I am particularly troubled to learn that since that news of this takeover effort broke, wall street investment bankers have contacted the Department of the Interior to gather information about Alaska's native corporations.

The Alaska Native Claims Settlement Act [ANCSA], as amended in 1987, includes provisions allowing native corporation shareholders to lift restrictions on alienation of their settlement common stock after December 18th of this year. Frankly, none of us in 1987 expected any native corporation to lift these restrictions unless there was an overwhelmingly broad consensus among its shareholders to do so.

The situation in southeast Alaska, however, raises the possibility that an outside corporation or individual, working in concert with a bare majority of a native corporation's shareholders, might effect a lifting of alienability restrictions and a subsequent takeover of the native corporation. A substantial number of the native corporation's shareholders thus could be involuntarily deprived of their heritage as Alaska Natives. This would be a particularly harsh and unjust result for the thousands of natives who depend on the use of their corporation lands to maintain their traditional subsistence hunting and fishing way of life.

Congress never intended this result, Mr. President. We never intended to put Alaska native corporations "in play."

Contested takeovers of Alaska native corporations raise profound policy questions that need to be examined in depth by Congress. We need to strike the proper balance between the right of shareholders to shape the future of their corporations and the strong congressional interest in the preservation of the native lands claims settlement.

This amendment would give the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee the time needed to undertake this task by extending for approximately 19 months the existing prohibition of alienation of settlement common stock. In addition to outright sales, that prohibition includes pledges, assignments in present or future, and any other form of alienation. A native corporation's board of directors could elect not to accept this extension by adopting a resolution to that effect by March 1st of next year.

In developing this amendment, we have consulted with the Alaska Federation of Natives [AFN] and other native organizations, including the able representatives of the southeast village corporation that prompted the current debate. AFN strongly supports the amendment. I hope that AFN will be able to develop a consensus position on takeovers, which can be presented to the authorizing committees and Congress as a whole.

Mr. President, Senator MURKOWSKI, Representative DON YOUNG, and I greatly appreciate the cooperation and help of the distinguished chairman and ranking Republican of the Senate Energy Committee and the distinguished chairman of the House Interior Committee. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 848), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1988.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1988), entitled "An Act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) the report of the Advisory Committee on the Future of the United States Space Program has provided a framework within which a consensus on the goals of the space program can be developed;

(2) a balanced civil space science program should be funded at a level of at least 20 percent of the aggregate amount in the budget of the National Aeronautics and Space Administration for "Research and development" and "Space flight, control, and data communications";

(3) development of an adequate data base for life sciences in space will be greatly enhanced through closer scientific cooperation with the Soviet Union, including active use of manned Soviet space stations;

(4) the space program can make substantial contributions to health-related research and should be an integral part of the Nation's health research and development program;

(5) Landsat data and the continuation of the Landsat system beyond Landsat 6 are essential to the Mission to Planet Earth and other long-term environmental research programs;

(6) increased use of defense-related remote sensing data and data technology by civilian agencies and the scientific community can benefit national environmental study and monitoring programs;

(7) the generation of trained scientists and engineers through educational initiatives and academic research programs outside of the National Aeronautics and Space Administration is essential to the future of the United States civil space program;

(8) the strengthening and expansion of the Nation's space transportation infrastructure, including the enhancement of launch sites and launch site support facilities, are essential to support the full range of the Nation's space-related activities;

(9) the aeronautical program contributes to the Nation's technological competitive advantage, and it has been a key factor in maintaining preeminence in aviation over many decades; and

(10) the National Aero Space Plane program can have benefits to the military and civilian aviation programs from the new and innovative technologies developed in propulsion systems, aerodynamics, and control systems that could be enormous, especially for high-speed aeronautical and space flight.

SEC. 3. POLICY.

It is the policy of the United States that—

(1) the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator"), in planning for national programs in environmental study and human space flight and exploration, should ensure the resiliency of the space infrastructure;

(2) a stable and balanced program of civil space science should be planned to minimize future year funding requirements in order to accommodate a steady stream of new initiatives;

(3) any new launch system undertaken or jointly undertaken by the National Aeronautics and Space Administration should be based on defined mission and program requirements or national policies established by Congress;

(4) in fulfilling the mission of the National Aeronautics and Space Administration to improve the usefulness, performance, speed, safety, and efficiency of space vehicles, the Administrator should establish a program of research and development to enhance the competitiveness and cost effectiveness of commercial expendable launch vehicles; and

(5) the National Aeronautics and Space Administration should promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR NASA.

(a) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and development", for the following programs:

(1) United States International Space Station Freedom, $2,028,900,000 for fiscal year 1992, of which $18,000,000 is authorized for the design and development of an Assured Crew Return Vehicle.

(2) Space transportation capability development, $679,800,000, of which $40,000,000 is authorized for propulsion technology development, and $10,000,000 is authorized for launch vehicle design studies, including single-stage-to-orbit vehicles.

(3) Physics and astronomy, $1,104,600,000, of which $3,000,000 is authorized for carrying out scientific programs which have otherwise been eliminated from the Space Station.

(4) Life sciences, $163,900,000.

(5) Planetary exploration, $299,300,000.

(6) Earth science and applications, $756,600,000, of which—

(A) $5,000,000 is authorized for the purchase of Landsat data at cost for global change research;

(B) $5,000,000 is authorized for the purchase of long-lead parts for a follow-on to Landsat 6;

(C) $1,000,000 is authorized for remote sensing data conversion;

(D) $3,000,000 is authorized for a pilot study and prototype demonstration to convert remotely-sensed aircraft and satellite data into machine readable form for global change research; and

(E) $2,000,000 is authorized for converting Landsat data collected prior to the date of enactment of this Act into a more durable archive medium.

(7) Materials Processing in space, $120,800,000.

(8) Communications, $39,400,000.

(9) Information systems, $42,000,000.

(10) Technology utilization, $32,000,000.

(11) Commercial use of space, $107,000,000.

(12) Aeronautical research and technology, $591,200,000.

(13) Transatmospheric research and technology, $72,000,000.

(14) Space research and technology, $324,800,000, of which $10,000,000 is authorized for a solar dynamics power research and technology development program, including a ground test of the technology, and $10,000,000 for a program of component technology development, validation, and demonstration directed at commercial launch competitiveness.

(15) Exploration activities, $34,500,000.

(16) Safety, reliability, and quality assurance, $33,600,000.

(17) Tracking and data advanced systems, $22,000,000.

(18) Academic programs, $64,600,000.

(b) SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Space flight, control, and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,328,900,000, of which $375,000,000 is authorized for the Advanced Solid Rocket Motor program.

(2) Space shuttle operations, $2,970,600,000.

(3) Launch services, $291,900,000, amounts of which may be expended for the Mobile Satellite launch if—

(A) the Administrator, in consultation with the Chairman of the Federal Communications Commission, determines that uncertainties with respect to the status of the American Mobile Satellite Corporation as the sole Federal Communications Commission license holder for mobile satellite services have been resolved; and

(B) at least 30 days prior to the obligation of any funds for the Mobile Satellite launch, the Administrator submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report detailing plans for reimbursement to the National Aeronautics and Space Administration for its portion of launch costs of the Mobile Satellite.

(4) Space and ground network, communications, and data systems, $920,900,000.

(c) CONSTRUCTION OF FACILITIES.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $35,000,000.

(2) Modification for Earthquake Protection, Downey/Palmdale, California, Johnson Space Center, $4,400,000.

(3) Modifications for Safe Haven, Vehicle Assembly Building, High-Bay 2, Kennedy Space Center, $7,500,000.

(4) Rehabilitation of Crawlerway, Kennedy Space Center, $3,000,000.

(5) Restoration of Shuttle Landing Facility Shoulders, Kennedy Space Center, $4,000,000.

(6) Restoration of the High Pressure Gas Facility, Stennis Space Center, $6,500,000.

(7) Construction of Addition for Flight Training and Operations, Johnson Space Center, $13,000,000.

(8) Construction of Advanced Solid Rocket Motor Program Facilities (various locations), $100,000,000.

(9) Modernization of Industrial Area Chilled Water System, Kennedy Space Center, $4,000,000.

(10) Rehabilitation and Expansion of Communications Duct Banks, Kennedy Space Center, $1,400,000.

(11) Replacement of 15 KV Load Break Switches, Kennedy Space Center, $1,300,000.

(12) Repair of Site Water System, White Sands Test Facility, $1,300,000.

(13) Replacement of Central Plant Chillers and Boiler, Johnson Space Center, $5,700,000.

(14) Modifications to X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $5,200,000.

(15) Restoration and Modernization of High Voltage Distribution System, Goddard Space Flight Center, $7,000,000.

(16) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $17,000,000.

(17) Modernization of Main Electrical Substation, Jet Propulsion Laboratory, $5,500,000.

(18) Restoration of Utilities, Wallops Flight Facility, $3,500,000.

(19) Repair and Modernization of the 12-foot Pressure Wind Tunnel, Ames Research Center, $25,000,000.

(20) Upgrade of Outdoor Aerodynamic Research Facility, Ames Research Center, $3,300,000.

(21) Modernization of 16-foot Transonic Tunnel, Langley Research Center, $3,400,000.

(22) Modifications to the High Pressure Air System, Langley Research Center, $11,700,000.

(23) Rehabilitation of Central Air System, Lewis Research Center, $5,600,000.

(24) Rehabilitation of Icing Research Tunnel, Lewis Research Center, $2,600,000.

(25) Construction of Data Interface Facility, White Sands Test Facility, $4,000,000.

(26) Rehabilitation of Tracking and Data Relay Satellite System (TDRSS) Ground Terminal, White Sands Test Facility, $5,700,000.

(27) Repair of facilities at various locations, not in excess of $1,000,000 per project, $31,700,000.

(28) Rehabilitation and modification of facilities at various locations, not in excess of $1,000,000 per project, $34,800,000.

(29) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $750,000 per project, $12,900,000.

(30) Environmental compliance and restoration, $36,000,000.

(31) Facility planning and design, not otherwise provided for, $34,000,000.

Notwithstanding the amounts authorized in paragraphs (1) through (31), the total amount authorized by this subsection shall not exceed $430,300,000.

(d) RESEARCH AND PROGRAM MANAGEMENT.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Research and program management", $2,422,300,000.

(e) INSPECTOR GENERAL.—There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1991, for "Inspector General", $14,600,000.

(f) USE OF FUNDS FOR CERTAIN CAPITAL ITEMS AND GRANTS.—(1) Notwithstanding the provisions of subsection (i), appropriations authorized in this Act for "Research and development" and "Space flight, control, and data communications" may be used—

(A) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(B) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

(2) Title to facilities described in paragraph (1)(B) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each grant under paragraph (1)(B) shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

(3) None of the funds appropriated for "Research and development" and "Space flight, control, and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

(g) AVAILABILITY OF APPROPRIATED AMOUNTS.—Appropriations authorized under this section for "Research and development", for "Space flight, control, and data communications", or for "Construction of facilities" may remain available until expended. Appropriations authorized under this section for "Research and program management" for maintenance and operation of facilities and for other services shall remain available through the next fiscal year following the fiscal year for which such amount is appropriated.

(h) USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS AND EXTRAORDINARY EXPENSES.—Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) USE OF FUNDS FOR FACILITIES.—(1) Except as provided in subsection (f), funds appropriated pursuant to subsections (a), (b), and (d) may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(2) Except as provided in subsection (f), funds appropriated pursuant to subsections (a) and (b) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(3) Funds appropriated pursuant to subsection (d) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

(j) CRAF/CASSINI MISSION.—Section 103(a)(1)(S) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Public Law 101-611; 104 Stat. 3192), is amended—

(1) by striking "$1,600,000,000" and inserting in lieu thereof "$1,900,000,000";

(2) in clause (i), by striking the semicolon at the end and inserting in lieu thereof ", of which not more than $263,000,000 shall be available for fiscal year 1992;"; and

(3) in clause (iii), by striking "$640,000,000" and inserting in lieu thereof "$940,000,000".

(k) TOTAL AUTHORIZATIONS FOR FISCAL YEARS 1993 AND 1994.—There is authorized to be appropriated to the National Aeronautics and Space Administration for "Research and development", "Space flight, control, and data communications", "Construction of facilities", "Research and program management", and "Inspector General" a total amount of $15,601,000,000 for fiscal year 1993, and $16,959,000,000, for fiscal year 1994, to remain available until expended.

(l) REPROGRAMMING FOR TRANSATMOSPHERIC RESEARCH AND TECHNOLOGY.—The Administrator may reprogram up to $67,000,000 of the amount authorized for "Research and development" for fiscal year 1992 to use for the purposes described in subsection (a)(13). No such funds may be obligated until a period of 30 days has passed after the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such transfer.

SEC. 5. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Appropriations authorized under section 4(c)(1) through (31)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent; or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized to be appropriated under section 4(c) (1) through (31) shall not be increased as a result of actions authorized under paragraphs (1) and (2).

SEC. 6. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 4 (a) and (b) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 4(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 7. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 4 (a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt, by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts

and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 8. FACILITY MAINTENANCE OFFICE.

The Administrator shall create a Facility Maintenance Office within the Office of Management Systems and Facilities which shall plan and direct facilities maintenance management for all National Aeronautics and Space Administration sites.

SEC. 9. GEOGRAPHICAL DISTRIBUTION.

It is the sense of Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 10. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 4(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 11. TRANSMISSION OF BUDGET ESTIMATES.

The Administrator shall, at the time of submission of the President's annual budget, transmit to Congress—

(1) a 5-year budget detailing the estimated development costs of each individual program under the jurisdiction of the National Aeronautics and Space Administration for which development costs are expected to exceed $200,000,000; and

(2) an estimate of the life-cycle costs associated with each such program.

SEC. 12. NATIONAL SCHOLARS PROGRAM FEASIBILITY STUDY.

(a) STUDY.—The Administrator shall conduct a study to evaluate the feasibility of initiating a National Scholars Program, as described under subsection (b), under which a select group of students would receive Federal support for education in mathematics, science, and related disciplines. The purpose of the National Scholars Program would be to help increase the number of Ph.D. recipients in mathematics, science, and related disciplines among the Nation's economically disadvantaged.

(b) DESCRIPTION OF NATIONAL SCHOLARS PROGRAM.—Under the National Scholars Program referred to in subsection (a), the Administrator would—

(1) select economically disadvantaged high school students for participation in science programs supported by the National Aeronautics and Space Administration or other institutions where they would receive specialized instruction in mathematics and science and would learn about practical applications of mathematics and science in the programs and activities of the National Aeronautics and Space Administration; and

(2) select economically disadvantaged undergraduate and graduate students as recipients of Federal financial support for predoctoral and doctoral studies in mathematics, science, and related disciplines.

(c) CONTENTS OF STUDY.—The study required by subsection (a) shall address, among other matters—

(1) whether the National Aeronautics and Space Administration could adequately implement the National Scholars Program;

(2) different options for structuring the National Scholars Program, including its establishment as a pilot program;

(3) the cost of the Program, with annual cost estimates for the first 10 years of the Program;

(4) alternative funding sources for the Program;

(5) the criteria for selecting students for participation in the Program;

(6) the appropriate number of students for annual participation in the Program;

(7) the organizational location within the National Aeronautics and Space Administration at which the Program and its activities would be administered;

(8) the management of the Program;

(9) the possible ways in which the Program or its concepts can be extended to other Federal agencies, State agencies, educational institutions, and private organizations;

(10) the existence of any current public or private sector programs which are similar to the Program, the benefits and disadvantages of those similar programs, and whether a new program would unnecessarily duplicate current efforts; and

(11) the extent to which existing Federal, State, and other science education programs and activities could be used to complement or supplement the Program.

(d) REPORT.—Within 6 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of the study required by subsection (a).

SEC. 13. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended to read as follows:

"AUTHORIZED APPROPRIATIONS

"SEC. 24. There is authorized to be appropriated to the Secretary for fiscal year 1992—

"(1) $5,104,000 to carry out this Act; and

"(2) $20,000,000 for a program to ensure the resiliency of the Nation's space launch infrastructure, only if a statute is enacted into law to establish that program within the Department of Transportation.".

SEC. 14. NATIONAL SPACE COUNCIL AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,491,000 for fiscal year 1992, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) LANDSAT DATA CONTINUITY.—It is the sense of Congress that the National Space Council, in coordination with the Committee on Earth and Environmental Sciences, should establish policy recommendations for carrying out the President's commitment to maintaining the continuity of Landsat data, including plans and programs for a successor to Landsat 6, organizational options and recommendations for acquiring Landsat data for global change research, national security, environmental management, and other governmental purposes, and options and recommendations for encouraging the use of Landsat data by commercial firms and development of the commercial market for such data. Such policy recommendations shall be transmitted in writing to Congress at the time of submission of the President's fiscal year 1993 budget.

SEC. 15. OFFICE OF SPACE COMMERCE AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce $491,000 for fiscal year 1992.

SEC. 16. AMENDMENT OF PUBLIC LAW 100-147.

Section 107(a) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147; 101 Stat. 864) is amended—

(1) by inserting ", in both then year and constant dollars," immediately after "estimated cost";

(2) by inserting "assembly (including related costs);" immediately after "construction of facilities;"; and

(3) by adding at the end the following new sentence: "Each such plan shall also include the estimated cost, in both then year and constant dollars, of operations for at least the first full year of steady operations of the space station.".

SEC. 17. MULTIYEAR CONTRACTING.

Along with submission to Congress of the National Aeronautics and Space Administration fiscal year 1993 budget request, the Administrator shall—

(1) present a study which assesses the usefulness of granting similar authority as under section 2306(h) of title 10, United States Code, to the National Aeronautics and Space Administration; and

(2) recommend no less than five candidate programs to be considered by Congress for multiyear contracting.

SEC. 18. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, including any subcontract under such a contract.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Administrator, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 19. QUALITY ASSURANCE PERSONNEL.

(a) EXCLUSION OF NASA PERSONNEL.—A person providing articles to the National Aeronautics and Space Administration under a contract entered into after the date of enactment of this Act may not exclude National Aeronautics and Space Administration quality assurance

personnel from work sites except as provided in a contract provision described in subsection (b).

(b) CONTRACT PROVISIONS.—The National Aeronautics and Space Administration shall not enter into any contract which permits the exclusion of National Aeronautics and Space Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to the Congress at least 60 days before entering into such contract.

SEC. 20. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ENDEAVOR TEACHER FELLOWSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, in tribute to the dedicated crew of the Space Shuttle Challenger, a trust fund to be known as the "National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund" (hereafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of gifts and donations accepted by the National Aeronautics and Space Administration pursuant to section 208 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476b), as well as other amounts which may from time to time, at the discretion of the Administrator, be transferred from the National Aeronautics and Space Administration Gifts and Donations Trust Fund.

(b) INVESTMENT OF TRUST FUND.—The Administrator shall direct the Secretary of the Treasury to invest and reinvest funds in the Trust Fund in public debt securities with maturities suitable for the needs of the Trust Fund, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Interest earned shall be credited to the Trust Fund.

(c) PURPOSE.—Income accruing from the Trust Fund principal shall be used to create the National Aeronautics and Space Administration Endeavor Teacher Fellowship Program, to the extent provided in advance in appropriation Acts. The Administrator is authorized to use such funds to award fellowships to selected United States nationals who are undergraduate students pursuing a course of study leading to certified teaching degrees in elementary education or in secondary education in mathematics, science, or technology disciplines. Awards shall be made pursuant to standards established for the fellowship program by the Administrator.

SEC. 21. DRUG AND ALCOHOL TESTING.

(a) SHORT TITLE.—This section may be cited as the "Civil Space Employee Testing Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) the success of the United States civil space program is contingent upon the safe and successful development and deployment of the many varied components of that program;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the positions affecting safety, security, and national security;

(4) the use of alcohol and illegal drugs has been demonstrated to adversely affect the performance of individuals, and has been proven to have been a critical factor in accidents in the workplace;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs in increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

(c) TESTING PROGRAM.—(1) The Administrator shall establish a program applicable to employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(2) The Administrator shall, in the interest of safety, security, and national security, prescribe regulations within 18 months after the date of enactment of this Act. Such regulations shall establish a program which requires National Aeronautics and Space Administration contractors to conduct preemployment, reasonable suspicion, random, and post-accident testing of contractor employees responsible for safety-sensitive, security, or national security functions (as determined by the Administrator) for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, security, and national security, for the conduct of periodic recurring testing of such employees for such use in violation of applicable law or Federal regulation.

(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension, disqualification, or dismissal of any employee to which paragraph (1) or (2) applies, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such employee has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.

(d) PROHIBITION ON SERVICE.—(1) No individual who is determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act shall serve as a National Aeronautics and Space Administration employee with responsibility for safety-sensitive, security, or national security functions (as determined by the Administrator), or as a National Aeronautics and Space Administration contractor employee with such responsibility, unless such individual has completed a program of rehabilitation described in subsection (e).

(2) Any such individual determined by the Administrator under this section to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance after the date of enactment of this Act who—

(A) engaged in such use while on duty;

(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (e);

(C) following such determination refuses to undertake such a rehabilitation program; or

(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties which such individual performed prior to the date of such determination.

(e) PROGRAM FOR REHABILITATION.—(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (c) in need of assistance in resolving problems with the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. Each contractor is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (c)(2). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any National Aeronautics and Space Administration contractor from establishing a program under this subsection in cooperation with any other such contractor.

(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the National Aeronautics and Space Administration whose duties include responsibility for safety-sensitive, security, or national security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

(f) PROCEDURES FOR TESTING.—In establishing the programs required under subsection (c), the Administrator shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the

individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the initial confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information of employees; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(g) EFFECT ON OTHER LAWS AND REGULATIONS.—(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or other that is inconsistent with the regulations promulgated under this section.

(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this Act that govern the use of alcohol and controlled substances by National Aeronautics and Space Administration employees with responsibility for safety-sensitive, security, and national security functions (as determined by the Administrator), or by National Aeronautics and Space Administration contractor employees with such responsibility.

(h) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.

Mr. GORE. Mr. President, I am pleased to bring to the Senate the final compromise version of the fiscal year 1992 authorization bill for the National Aeronautics and Space Administration. This bill has been approved by the House of Representatives and is now ready for final passage by the Senate. Approval of H.R. 1988 will provide needed congressional guidance to the President and NASA for the U.S. Space Program for fiscal year 1992 and many years to come.

Mr. President, this is the second time the Senate will have considered and adopted legislation authorizing funds for NASA's Civil Space and Aeronautics Research and Technology Program for fiscal year 1992. On September 27 of this year, the Senate approved a very similar bill reported by the Commerce Committee. I am pleased to advise my colleagues that the present bill incorporates may of the same provisions as the earlier Senate-passed bill.

Overall, this bill authorizes $14.896 billion for NASA for fiscal year 1992. This is significantly above the amount provided earlier this year by the Appropriations Committee, but nonetheless represents a reduction of nearly $600 million from the President's request.

It is my sincere belief that enactment of this bill, which combines funding priorities for this fiscal year with a series of policy provisions, will help ensure greater success for the U.S. space program. Such support is essential, as recent disappointments, such as the flawed mirror on the Hubble space telescope and the jammed antenna on the Galileo probe to Jupiter, have focused public attention on the risky nature of our space program. By focusing our authorization bill in ways that strengthen programs such as the Mission to Planet Earth, the end result will be a much stronger, more robust space program.

Mr. President, I will ask unanimous consent that a brief summary and explanation of H.R. 1988 be included in the RECORD at the end of my statement. For the benefit of my colleagues, however, I would like to highlight several of the specific program authorization levels included in this bill.

H.R. 1988 authorizes the full $2.03 billion requested for the space station Freedom Program, of which $18 million is authorized for initial design and development of an assured crew rescue vehicle.

While the bill makes significant reductions to the proposed NASA/DOD unmanned new launch system, pending the submission of detailed launch design studies and mission needs assessments, funding was authorized for continued propulsion technology work. The bill also provides $10 million for a new program to develop and validate component technology intended to help ensure the continued competitiveness of the U.S. commercial launch industry.

We have also agreed to continue funding authority for the comet rendezvous and asteroid flyby mission. This is a reversal from the earlier Senate-passed authorization bill and reflects a compromise with our colleagues in the House. However, should the planned European contribution to this mission fail to materialize during the coming year, the issue of continued funding for the CRAF mission will certainly be revisited by the subcommittee next year.

H.R. 1988 makes a number of changes to NASA's Earth Science Program, which I believe are critical to this bill. In addition to authorizing funds for the Earth observing system and Earth probes, the bill authorizes a series of funding enhancements above NASA's budget request, including $3 million for the development of a prototype data set using aircraft remote sensing data; $2 million for recovering deteriorating Landsat data; $5 million for the acquisition of Landsat data for global change research; $5 million for the procurement of long-lead parts for a Landsat 6 follow-on; and $1 million for the conversion of classified remote sensing data to civilian use.

In an effort to establish funding priorities, we have identified these and other programs as being in need of additional, albeit modest, funding in fiscal year 1992. Of course, I am aware that this authorization bill is being considered after the President has signed into law the appropriations bill that funds NASA. The constrained budget that came from that bill, NASA has argued, has left the agency with limited flexibility to allocate scarce funds. Nonetheless, it remains the responsibility of the authorizing committees to provide policy guidance to NASA on programs that need additional funding.

As we worked with our colleagues in the House to shape this compromise bill, NASA did not object to our language authorizing additional funds for the Earth science programs I just noted or several other programs. Accordingly, it is my expectation that the programs identified in our bill will be funded in the operating plan for fiscal year 1992, now being developed by the NASA Administrator.

Mr. President, I want to touch on two provisions that have been deleted from the final bill in an effort to reach a compromise. The first was the Senate authorization for the flight telerobotic servicer, a technology program that was originally intended to provide critical assembly and maintenance to the space station. Quite simply, we had no choice in this matter, as NASA put the FTS program at the bottom of its priorities for space technology programs. That made it virtually impossible to preserve, given existing funding limitations.

I am convinced, however, that the development of automation and robotics will play a central role in NASA's future exploration activities. More importantly, it will contribute to increased human productivity in other parts of the economy. It would be a mistake to relinquish all telerobotics flight activity to other countries. In fact, recent press accounts indicate that the Japanese, through the Toshiba Corp. and the National Space Development Agency, have begun discussions with NASA about obtaining the technology developed through NASA's FTS program in order that it can be incorporated into the Japanese space program. I strongly urge NASA to take advantage itself of the component developments of FTS and explore ways in which investments in both the hardware and software can be incorporated into programs that first provide benefit to this nation.

The final bill leaves in place the current U.S. policy which prohibits the use of foreign launch capabilities for U.S. Government satellites. In the bill first developed by the House, language was adopted outlining conditions under which this policy requirement could be waived. However, now that the decision has been made to upgrade our west coast launch facility, there is no known launch opportunity that would necessitate a deviation from our cur-

rent launch policy. Accordingly, the waiver language was dropped from the final bill, with continued support for our current policy on launching U.S. Government satellites.

Mr. President, before concluding, there is one last item of importance in this bill that must be highlighted. I am speaking of the requirement that beginning next year, NASA provide to the Congress projected development costs for each major mission, program, and project for a 5-year period, as well as the projected life-cycle costs of each. As I have stated several times this year, information on NASA's long-term budget profile is needed to enable the Congress to better understand how funding decisions made in the current year create a wedge which affect future funding opportunities. This data is to be submitted at the time of the President's annual budget transmittal to the Congress and is to be specific to individual programs and missions, not simply NASA's broad disciplines. I strongly urge NASA to give careful attention to the development of the long-term budget data required in this bill, as it will have a very real impact on future funding decisions related to the U.S. space program.

Mr. President, I believe this legislation will help ensure that the United States maintain its leadership in space and aeronautics. I urge my colleagues to join me in supporting the passage of H.R. 1988.

I ask unanimous consent that the explanation be printed in the RECORD.

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

EXPLANATION OF H.R. 1988

OVERVIEW AND SUMMARY OF MAJOR PROVISIONS

The Bill provides $14.896 billion in new budget authority and amends previously provided budgetary authority to authorize a total of $15.159 billion for F.Y. 1992. This represents a reduction of $594 million from the President's request.

The Bill also provides general new budget authority for the next two fiscal years in the amount of $15.601 billion for F.Y. 93 and $16.959 billion for F.Y. 94. These authorizations represent a 5% real growth per year, accounting for an annual inflation of 3.8%, from the fiscal year 1992 appropriated level.

Specific funding initiatives include the following:

The bill provides $2.029 billion, the full request, for Space Station Freedom. Of this amount, $18 million is authorized for design and development of an Assured Crew Return Vehicle.

Up to $40 million is provided for propulsion technology studies and $10 million for vehicle design studies including single stage to orbit vehicles in order to establish a firm technology base for a possible New Launch System. The Committee intends to thoroughly review the need for and potential roles of such a New Launch System pending the availability of a substantive program plan and detailed budget submission.

The bill provides, within Physics and Astronomy, $3 million to carry out scientific programs which were eliminated from the Station due to the reduction in attached payload accommodations.

Within Earth Sciences, the bill provides $5 million for Landsat data purchases at the cost of reproduction and authorizes funding for long lead Landsat parts in order to preclude a gap in data coverage. $1 million has been made available for other remote sensing data conversion from Defense related data bases and $3 million has been provided for a pilot study with the objective of making aircraft and satellite remote sensing data available for Global Change research in machine readable form. The Committee expects Department of Energy capabilities to be brought to bear on this effort. Finally, the bill provides $2 million for the conversion of archived Landsat data into a more durable medium. The Committee places a high priority on the maintenance of a consistent and usable set of Landsat data both in the past and in the future.

Within Space Technology, the Bill provides $10 million for solar power research and technology development and $10 million for a program of component technology development, validation and demonstration directed at commercial launch competitiveness. The Committee expects that, in carring out this program, close coordination and cooperation is established with the private sector and with Agency elements responsible for the procurement of launch services for Government payloads. One major goal of this program is to reduce the cost of launch services for the Government.

Also within the Space Technology account, the Bill provides $15 million for telerobotics research in order to capitalize on the investment made in the Flight Telerobotic Servicer program. The Committee expects that NASA will incorporate the results obtained to date in developing a robust long term activity in this area, and will explore ways in which hardware and software advances from the Flight Telerobotic Servicer program can be incorporated into future telerobotics designs.

Within Space Shuttle production and operational capability, $375 million has been made available for the Advanced Solid Rocket Motor program. The Committee recognizes that this amount contains $50 million which was transferred from the Construction of Facilities account but not specifically provided for in the Appropriations bill. The Committee does not wish to restrict NASA's budget authority for Construction of Facilities and therefore would support a reprogramming for ASRM, if necessary, to meet total F.Y. 1992 requirements for the program.

Also within this general account, the Committee has provided $112 million for the Assured Shuttle Availability program. A general $10 million reduction has been applied without prejudice.

Within Launch Services, funds have been authorized for the launch of the Mobile Satellite provided that all administrative and judicial uncertainties with respect to the status of the license are resolved and a plan of reimbursement from other Federal Agencies for their share of usage.

The bill amends previously provided budgetary authority for the Comet Rendezvous/Asteriod Flyby—Cassini program to reduce the amount available for F.Y. 1992 with a concomitant increase in the total program amount made available through program completion. The Committee has taken this action in view of the severe shortfall in agency wide appropriations in F.Y. 1992 but has maintained its commitment to a full program authorization. The Committee, however, will revisit this commitment in the event that foreign participation in this program does not materialize.

Special reprogramming authority for transatmospheric research and technology has been provided within the Research and Development account in order to provide NASA the flexibility to commit sustaining funds, in combination with appropriated amounts from Department of Defense, for the continuation of the National Aerospace Plane program.

The Bill establishes a Facility Maintenance Office within the Office of Management Systems and Facilities in order to centralize programmatic authority for planning, budgeting, and carrying out an agencywide facility maintenance program.

The Bill includes a provision which requires a special 5-year budget plan for developmental programs in excess of $200 million. The programs reported in this submission must include an estimate of life-cycle costs. For the purposes of this submission, life-cycle costs must include, as a minimum, ongoing annual mission operating budgets, data analysis programs, planned hardware upgrades, and other costs that will be incurred in future years. The intent of this provision is to provide the Committee with specific information to enable prudent decisions to be made in allocating funds for the immediate fiscal year.

The Bill includes a National Scholars Program feasibility study intended to review options for increasing the number of PhD recipients among economically disadvantaged groups.

The bill authorizes for the Department of Transportation up to $20 million for a program to ensure the resiliency of the Nation's space launch infrastructure by improving the efficiency and effectiveness of launch facilities. The availability of this authority is subject to the enactment of subsequent legislation establishing a grant type program for managing and allocating these funds.

The Bill establishes a drug and alcohol testing program for all safety-sensitive, security employees working at NASA or with NASA contractors. This testing program mandates random, pre-employment, post-accident, and reasonable suspicion testing, while authorizing periodic testing. While not mandating rehabilitation for an employee who tests positive, the Bill precludes such an individual from returning to a safety-sensitive, security, or national security position until a rehabilitation program has been completed.

The Bill directs the Administrator to incorporate Department of Health and Human Services guidelines on laboratories and testing procedures. In addition, the bill mandates a series of procedural safeguards which promote individual privacy, require the confirmation of drug and alcohol tests by a scientifically recognized method capable of providing quantifiable data, require split samples that will allow samples to be retested, provide for the confidentiality of test results, and ensure that the selection of employees for testing must be by nondiscriminatory and impartial methods.

The Committee recognizes that NASA has implemented a Drug-Free Workplace Program pursuant to Executive Order 12546 and that testing for illegal use of controlled substances by NASA employees has been conducted since March, 1989. The Committee has included this provision in the Bill to codify this existing drug testing program for employees in designated positions, as well as to

require testing for alcohol and to extend these testing requirements to NASA contractors in certain positions. Enactment of this section is not intended to disturb the drug testing program already underway at NASA. Nor is it the Committee's intent to expand the testing population beyond the pool of testing designated positions already identified by NASA. NASA has done a great deal of work in the drug testing area and this language is not intended to threaten the validity or the scope of the current program.

Mr. HOLLINGS. Mr. President, the bill before us represents a final compromise with the House on the National Aeronautics and Space Administration authorization bill for fiscal year 1992. The House of Representatives passed H.R. 1988 as amended on November 7. Senate concurrence today will send this legislation to the President. I urge my colleagues to join me in supporting final passage of this bill.

Mr. President, given our current fiscal situation and projections of a Federal budget deficit for fiscal year 1992 that may reach $350 billion, there can be no doubt that spending priorities must be established. This is true not just for NASA, but for the entire Federal budget. Accordingly, during consideration of this compromise bill, we have worked to make program reductions in certain areas to help establish funding priorities for fiscal year 1992 and the remainder of the decade.

In total, the legislation authorizes $14.9 billion for NASA's space and aeronautics research and technology development programs for fiscal year 1992. When combined with the existing multiyear authorization for the CRAF and Cassini missions, the effective fiscal year 1992 program level for NASA provided by this bill is $15.1 billion, which represents a reduction of $595 million from the President's request. The bill also authorizes funding for the National Space Council, the Office of Commercial Space Transportation in the Department of Transportation [DOT], and the Office of Space Commerce in the Department of Commerce.

Mr. President, the bill before us also authorizes a total funding level for NASA for fiscal year 1993 and 1994. These authorizations were in the original House-passed bill and are intended to serve as a reference point for NASA and the Office of Management and Budget in developing budgets for the next 2 years. These authorizations, however, will not obviate the need for an authorization bill next year, as we still will need to authorize the specific program funding levels. While agreeing to the inclusion of this provision, I continue to believe that an annual authorization bill is important in our effort to maintain adequate congressional oversight of the many programs that comprise the U.S. space program.

The legislation includes a number of policy provisions that will help the effectiveness of our space program. Foremost of these is the requirement that NASA establish a drug and alcohol testing program for all safety-sensitive, security, and national security employees working at NASA or with NASA contractors. In a program patterned after the drug and alcohol testing program established for transportation safety-sensitive and security workers in the recently-enacted transportation appropriations bill—Public Law 102-143—this bill requires random, preemployment, postaccident, and reasonable suspicion testing. The bill also allows periodic testing should the Administrator of NASA determine such testing is needed.

Mr. President, NASA currently has in place a testing program in which approximately 2,300 individuals in designated safety sensitive, security, and national security positions are tested for controlled substances. This legislation codifies that testing program and extends it to require testing of these same employees for alcohol, as well as to individuals in safety-sensitive, security, and national security positions with NASA contractors.

Billions of taxpayer dollars are being invested in the development of many risky and technically complex projects for the civil space program. it is therefore incumbent upon us to do all that we can to make the space program as reliable and safe as possible. Drug and alcohol testing will serve as an invaluable tool in that regard.

The enactment of this legislation is not intended to disturb the testing for controlled substances already conducted by NASA. The agency has done a greal deal of work in this area, and H.R. 1988 is not intended to threaten the validity or the scope of the current testing program.

Of course, a testing program of this type needs safeguards that provide all possible protection to ensure the accuracy of test results and to protect innocent employees. This bill accomplishes this objective by requiring that testing follow Department of Health and Human Services [HHS] guidelines; the initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the test results and medical histories be protected.

With respect to alcohol testing, Mr. President, I urge NASA to work with officials at HHS and DOT in developing standards for impairment. The expertise that has been developed at these two Federal agencies will help to ensure that NASA successfully complies with the 18-month deadline required by this bill for implementing the new testing program. This is a longer period of time than was provided in the transportation appropriations law, as officials at DOT have done more work in developing an alcohol testing program for transportation workers. The alcohol testing requirements in this bill will ensure that designated employees within NASA and with NASA contractors do not drink and perform safety-sensitive, security, or national security activities.

Concerning random alcohol testing, the testing provisions in H.R. 1988 give NASA sufficient authority to develop rules to determine when testing will occur. The authority will allow NASA to require random tests centered around the time of employee performance. This legislation gives NASA ample authority to focus the rules and procedures appropriately and the ability to avail itself of the latest techniques, such as breathalyzers, to carry out the testing.

Mr. President, we have worked hard this year to ensure that those who drink alcohol or use illegal drugs are removed from jobs that can adversely affect public safety or national security. The testing program established under this legislation will further our efforts to protect that public interest. I urge my colleagues to join in final passage of this legislation.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL CIVILIAN EMPLOYEES REMEMBRANCE DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 198 designating "Federal Civilian Employees Remembrance Day" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 198) to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1429

Mr. MITCHELL. On behalf of Senator Akaka, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The bill check read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. AKAKA proposes an amendment numbered 1429:

On page 2, line 3, strike "Hawaii" and insert "Federal Civilian Employees.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1429) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 198) and its preamble are as follows:

S.J. RES. 198

Whereas on Sunday morning, December 7, 1941, at 7:55 a.m., the first wave of dive and high level bombers from the Imperial Japanese Combined Fleet attacked Hickam and Wheeler Airfields in the United States territory of Hawaii;

Whereas the first bombs fell on Ford Island at Pearl Harbor;

Whereas American fighter planes were strafed and destroyed on the ground at Pearl Harbor, Hickam Airfield, Kaneohe Naval Air Station, Bellows Airfield, Ewa Marine Corps Air Station, Schofield Barracks, and Wheeler Airfield;

Whereas the United States Pacific Fleet was devastated, but its carriers were still afloat, and Pearl Harbor's shipyards, fuel storage area, and submarine base remarkably suffered very little damage;

Whereas Federal civilian employees responded magnificently that fateful morning and met their country's call to duty with distinction and valor;

Whereas Federal civilian employees were instrumental in the remarkable salvage effort to raise and repair several of the naval vessels that were put back in action before the end of World War II;

Whereas of the 2,403 Americans killed in connection with the attack on Pearl Harbor, 68 were civilians, and of the 1,178 Americans wounded in connection with the attack, 35 were civilians;

Whereas Federal civilian employees exhibited the highest sense of patriotism and exemplary performance at Pearl Harbor and during World War II;

Whereas on December 4, 1991, ceremonies coordinated by the National Park Service will be held in the State of Hawaii to recognize the contributions of Federal civilian employees; and

Whereas we should honor these distinguished individuals during the commemoration of the fiftieth anniversary of the attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 4, 1991, is designated as "Federal Civilian Employees Remembrance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities recognizing the important contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II, and thanking such dedicated and committed individuals for their sacrifice and devotion to their country.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar Nos. 148 and 237 be indefinitely postponed.

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

TECHNICAL CORRECTIONS IN THE JUDICIAL IMPROVEMENTS ACT OF 1990

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1284.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1284) entitled "An Act to make certain technical corrections in the Judicial Improvements Act of 1990", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Chapter 23 of title 28, United States Code, as added by section 103 of the Judicial Improvements Act of 1990, is amended—

(1) in section 471 by striking "this title" and inserting "this chapter"; and

(2) in section 474(a)—

(A) in paragraph (1)—

(i) by striking "chief judges" and inserting "chief judge"; and

(ii) by striking "court of appeals for such"; and

(B) in paragraph (2)—

(i) by striking "a court of appeals" and inserting "a circuit may designate another judge of the court of appeals of that circuit,"; and

(ii) by striking "court to perform the chief" and inserting "court, to perform that chief".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by —

(1) striking the comma after "title"; and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)), as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) TEACHING COMPENSATION OF JUSTICES AND JUDGES RETIRED FROM REGULAR ACTIVE SERVICE.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United States Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

"(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

SEC. 7. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) RETIREMENT OF JUDGES OF THE CLAIMS COURT.—Section 178 of title 28, United States Code, as added by section 306(a) of the Judicial Improvements Act of 1990, is amended—

(1) in subsection (f)(2)(A) by inserting "(except for subchapters III and VII)" after "chapter 84"; and

(2) in subsection (j)—

(A) in paragraph (1)—

(i) by striking "(2)" and inserting "(4)"; and

(ii) by striking "so practices law" and inserting "engages in any such activity";

(B) in paragraph (2) by striking "If" and inserting "Subject to paragraph (4), if"; and

(C) in paragraph (3) by inserting "for" after "(other than".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8339(n) of title 5, United States Code, as amended by section 306(c)(4) of the Judicial Improvements Act of 1990, is amended by inserting a comma after "United States commissioner".

(c) THRIFT SAVINGS PLAN.—(1) The section 8440b of title 5, United States Code, entitled "Claims Court Judges", as added by section 306(d) of the Judicial Improvements Act of 1990, is amended—

(A) by redesignating such section as section 8440c; and

(B) in subsection (b)—

(i) in paragraph (4)(A) by striking "subsection (d)" and inserting "subsection (c)";

(ii) by striking paragraph (7) and redesignating paragraph (8) as (7); and

(iii) by adding at the end the following:

"(8) Notwithstanding paragraph (4)(B), if any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an annuity under section 178 of title 28, and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding paragraph (4)(A), if any Claims Court judge retires under circumstances making such judge eligible to make an election under section 8433(b), and such judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440b. Claims Court judges."

and inserting after the last item under subchapter III the following:

"8440c. Claims Court judges."

(3) Paragraphs (8) and (9) of section 8440c(b) of title 5, United States Code (as added by paragraph (1)) shall be effective as of January 1, 1991, and shall apply to any Claims Court judge retiring on or after such date.

(4)(A) The section 8440c of title 5, United States Code, entitled "Judges of the United States Court of Veterans Appeals" is amended by redesignating such section as section 2440d.

(B) The table of sections at the beginning of subchapter III of chapter 84 of title 5, United States Code, is amended by striking

"8440c. Judges of the United States Court of Veterans Appeals."

and inserting

"8440d. Judges of the United States Court of Veterans Appeals."

(C) Section 5(b) of Public Law 102-82 is amended—

(i) by striking "8440c" and inserting "8440d"; and

(ii) by striking "(as added by subsection (a))".

(D) section 7296(f)(2)(A) of title 38, United States Code, as amended by section 5(c)(1) of Public Law 102-82, is amended by striking "8440c" and inserting 8440d".

(E) section 7297(n) of title 38, United States Code, as amended by section 5(c)(2) of Public Law 102-82, is amended by striking "8440c" and inserting 8440d".

(d) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8402(g) of title 5, United States Code, as added by section 306(e) of the Judicial Improvement Act of 1990, is amended by inserting a comma after "such chapter".

SEC. 8. NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL.

(a) MEMBERSHIP.—Section 411 of the National Commission on Judicial Discipline and Removal Act (title IV of the Judicial Improvements Act of 1990) (28 U.S.C. 372 note) is amended by striking subsections (e) and (f) and redesignating subsections (g) through (h) as subsections (e) through (f), respectively.

(b) CLERICAL AMENDMENTS.—(1) The subtitle heading for subtitle II of the Judicial Discipline and Removal Reform Act of 1990 is amended by striking "Impeachment" and inserting "Discipline and Removal".

(2) Section 409 of the National Commission on Judicial Discipline and Removal Act (28 U.S.C. note) is amended by striking "hereafter" and inserting "hereinafter".

SEC. 9. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

Section 318(c) of the Judicial Improvements Act of 1990 is amended by striking "March 31, 1992" and inserting "March 31, 1993".

SEC. 10. OTHER TECHNICAL CORRECTIONS TO TITLE 28, UNITED STATES CODE.

(a) PROCEDURE FOR REMOVAL.—Section 1446 of title 28, United States Code, is amended—

(1) by striking "petition for" each place it appears and inserting "notice of";

(2) in subsection (c)(3), by striking "petition is first denied" and inserting "prosecution is first remanded";

(3) by striking paragraphs (4) and (5) of subsection (c) and inserting the following:

"(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

"(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and after such hearing shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.";

(4) by striking "petition" each place it appears and inserting "notice"; and

(5) in subsection (d)—

(A) by striking "the removal" and inserting "removal"; and

(B) by striking out "and bond".

(b) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447(b) of title 28, United States Code, is amended by striking "petitioner" and inserting "removing party".

(c) APPOINTMENT OF CIRCUIT JUDGES.—Section 44(c) of title 28, United States Code, is amended by striking "this Act" and inserting "the Federal Courts Improvement Act of 1982".

SEC. 11. AMENDMENTS TO RULES OF CIVIL PROCEDURE.

(a) TECHNICAL AMENDMENT.—Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking "Rule 4(m)" and inserting "Rule 4(j)".

(b) AMENDMENT TO FORMS.—Form 1-A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1-B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18-A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date.

SEC. 12. CONFORMITY WITH RULES OF APPELLATE PROCEDURE.

Section 2107 of title 28, United States Code, is amended—

(1) by designating the first and second paragraphs as subsections (a) and (b), respectively;

(2) by striking the third and fourth paragraphs;

(3) by designating the fifth paragraph as subsection (d); and

(4) by inserting after subsection (b), as so designated, the following:

"(c) The district court may, upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, extend the time for appeal upon a showing of excusable neglect or good cause. In addition, if the district court finds—

"(1) that a party entitled to notice of the entry of a judgment or order did not receive such notice from the clerk or any party within 21 days of its entry, and

"(2) that no party would be prejudiced,

the district court may, upon motion filed within 180 days after entry of the judgment or order or within 7 days after receipt of such notice, whichever is earlier, reopen the time for appeal for a period of 14 days from the date of entry of the order reopening the time for appeal.".

Amend the title so as to read: "An Act to make certain technical corrections in the Judicial Improvements Act of 1990 and other provisions of law relating to the courts.".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 344, H.R. 3029, making technical corrections to agricultural laws.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3029) to make technical corrections to agricultural laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SEC. 2 TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

Sec. 101. References.
Sec. 102. Conserving use acres.
Sec. 103. Double cropping of 0/92 acres.
Sec. 104. Announcement of acreage reduction programs for rice.
Sec. 105. Corn and sorghum bases.
Sec. 106. Cover crops on reduced acreage.
Sec. 107. Cotton user marketing certificates.
Sec. 108. Malting barley.
Sec. 109. Deficiency payments for wheat, barley, and oats.
Sec. 110. Minor oilseed loan rates.
Sec. 111. Sugar.
Sec. 112. Crop acreage base.
Sec. 113. Miscellaneous amendments to the Agricultural Act of 1949.
Sec. 114. Miscellaneous amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 115. Miscellaneous amendments to the Agricultural Adjustment Act.
Sec. 116. Miscellaneous amendments to the Agricultural Adjustment Act of 1938.
Sec. 117. Section redesignation.
Sec. 118. Other miscellaneous commodity amendments.
Sec. 119. Sense of Congress regarding imported barley and oats.
Sec. 120. Payment options for winter wheat producer.
Sec. 121. Modification of milk production termination program.
Sec. 122. Cotton classing fees.
Sec. 123. Sense of Congress regarding targeted option payments.
Sec. 124. Transfer of peanut quota undermarketings.
Sec. 125. Cotton futures contracts.
Sec. 126. Report on lamb price and supply reporting services of the Department of Agriculture.
Sec. 127. Cotton first handler marketing certificates.

TITLE II—CONSERVATION

Sec. 201. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 202. Amendment to the Soil Conservation and Domestic Allotment Act.
Sec. 203. Farms for the future.
Sec. 204. Amendments to the Food Security Act of 1985.

TITLE III—TRADE RELATED TECHNICAL CORRECTIONS

Sec. 301. Superfluous punctuation in farmer to farmer provisions.
Sec. 302. Punctuation correction in Enterprise for the Americas Initiative.
Sec. 303. Spelling correction in section 604.
Sec. 304. Missing word in section 606.
Sec. 305. Punctuation error in section 607.
Sec. 306. Typographical correction in section 612.
Sec. 307. Erroneous quotation.
Sec. 308. Punctuation correction.
Sec. 309. Date correction.
Sec. 310. Missing subtitle heading correction.
Sec. 311. Redesignation of subsection.
Sec. 312. Date correction to section 404.
Sec. 313. Date correction to section 416.
Sec. 314. Redesignation of section.
Sec. 315. Cross reference correction.
Sec. 316. Placement clarification.
Sec. 317. Punctuation correction.
Sec. 318. Elimination of obsolete cross reference.
Sec. 319. Cross reference correction.
Sec. 320. Correcting clerical errors in section 204 of the Agricultural Trade Act of 1978.
Sec. 321. Capitalization correction.
Sec. 322. Correction of error in date.
Sec. 323. Correction of typographical error.
Sec. 324. Cross reference correction.
Sec. 325. Elimination of superfluous word.
Sec. 326. Cross reference correction.
Sec. 327. Amendment to section 602.
Sec. 328. Section 407 corrections.
Sec. 329. Section 407(b) amendment.
Sec. 330. Supplemental views in annual report.
Sec. 331. Consultations with Congress.
Sec. 332. Statute designation.
Sec. 333. Correction of placement and indentation of subparagraph.
Sec. 334. Export credit guarantee program.
Sec. 335. Amendments to the Food for Progress Program.
Sec. 336. Miscellaneous amendments to the Agricultural Trade Development and Assistance Act of 1954.
Sec. 337. Reporting requirements.
Sec. 338. Sharing of United States agricultural expertise.
Sec. 339. Competitive insurance.

TITLE IV—RESEARCH

Sec. 401. Competitive, special, and facilities research grants.
Sec. 402. National Agricultural Research, Extension, and Policy Act of 1977.
Sec. 403. Rural development and small farm research and education.
Sec. 404. National Genetic Resources Program.
Sec. 405. Alternative agricultural research and commercialization.
Sec. 406. Miscellaneous research provisions.
Sec. 407. Sustainable agriculture research and education.

TITLE V—CREDIT

Sec. 501. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 502. Amendments to the Farm Credit Act of 1971.

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

Sec. 601. Federal crop insurance.
Sec. 602. Disaster relief.

TITLE VII—RURAL DEVELOPMENT

Sec. 701. Amendments to the Consolidated Farm and Rural Development Act.
Sec. 702. Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990.
Sec. 703. Amendments to the Rural Electrification Act of 1936.
Sec. 704. Rural health leadership development.

TITLE VIII—AGRICULTURAL PROMOTION

Sec. 801. Short title.
Sec. 802. Pecans.
Sec. 803. Mushrooms.
Sec. 804. Potatoes.
Sec. 805. Limes.
Sec. 806. Soybeans.
Sec. 807. Honey.
Sec. 808. Cotton.
Sec. 809. Fluid milk.
Sec. 810. Wool.

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

Sec. 901. Certification period.
Sec. 902. Application of Food Stamp Act of 1977 to disabled persons.
Sec. 903. Categorical eligibility for recipients of general assistance.
Sec. 904. Exclusions from income.
Sec. 905. Resources that cannot be sold for a significant return.
Sec. 906. Resource exemption for households exempt under AFDC or SSI.
Sec. 907. Technical amendment on transitional housing.
Sec. 908. Notices to monthly reporting households.
Sec. 909. Performance standards for employment and training programs.
Sec. 910. Suspension of certain requirements, and study, of food stamp program on Indian reservations.
Sec. 911. Value of allotment.
Sec. 912. Prorating within a certification period.
Sec. 913. Codification of limitation on recovery of stale claims.
Sec. 914. Recovery of claims caused by nonfraudulent household errors.
Sec. 915. Demonstration projects for vehicle exclusion limit.
Sec. 916. Definition of retail food store.

Subtitle B—Commodity Distribution and Children's Programs

Sec. 921. Extension of elderly commodity processing demonstrations.
Sec. 922. Rules relating to food stamp retailers and wholesalers.
Sec. 923. Child care clarification.
Sec. 924. Homeless children's feeding projects.
Sec. 925. Reduction of Federal paperwork for distribution of commodities.
Sec. 926. Advance funding for commodity purchases.

Subtitle C—Farmers' Market Nutrition Program

Sec. 931. Purpose.
Sec. 932. Farmers' market nutrition program.
Sec. 933. Conforming amendment.

Subtitle D—Procurement of Infant Formula for WIC

Sec. 941. Definitions.
Sec. 942. Procurement of infant formula for WIC.
Sec. 943. Procedures to reduce purchases of low-iron infant formula.
Sec. 944. Incentive to encourage joint purchasing of infant formula.
Sec. 945. Technical assistance.

Subtitle E—Indian Subsistence Farming Demonstration Grant

Sec. 951. Purposes.
Sec. 952. Definitions.
Sec. 953. Indian subsistence farming demonstration grant program.
Sec. 954. Training and technical assistance.
Sec. 955. Tribal consultation.
Sec. 956. Use of grants.
Sec. 957. Amount and term of grant.
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Sec. 1014. Collection of fees for collection services.
Sec. 1015. Meat and poultry inspection.
Sec. 1016. Fees for laboratory accreditation.

TITLE XI—EFFECTIVE DATE

Sec. 1101. Effective date.

TITLE I—AGRICULTURAL COMMODITY PROGRAMS

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

SEC. 102. CONSERVING USE ACRES.

(a) RICE.—Section 101B(c)(1)(E) (7 U.S.C. 1441–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(b) COTTON.—Section 103B(c)(1)(E) (7 U.S.C. 1444–2(c)(1)(E)) is amended—

(1) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(2) in clause (i), by striking "and will not affect farm income adversely".

(c) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

(d) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b–3a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking "sesame,";

(B) by striking "rye, mung beans" and inserting "rye, millet, mung beans"; and

(C) in subclause (I), by striking "and will not affect farm income adversely"; and

(2) in clause (ii), by striking "mustard seed, and" and inserting "mustard seed, sesame, and".

SEC. 103. DOUBLE CROPPING OF 0/92 ACRES.

(a) FEED GRAINS.—Section 105B(c)(1)(F) (7 U.S.C. 1444f(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

(b) WHEAT.—Section 107B(c)(1)(F) (7 U.S.C. 1445b-3a(c)(1)(F)) is further amended by adding at the end the following new clause:

"(iii) DOUBLE CROPPING.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any portion of the acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) that is devoted to an industrial, oilseed, or other crop pursuant to clause (i) or (ii) to be subsequently planted during the same crop year to any crop described in subparagraph (B), (C), or (D) of section 504(b)(1). The planting of soybeans as such subsequently planted crop shall be limited to farms determined by the Secretary to have an established history of double cropping soybeans during at least 3 of the preceding 5 years. In implementing this clause, the Secretary shall require producers to agree to forego eligibility to receive loans under this Act for the crop of the subsequently planted crop that is produced on a farm under this clause.".

SEC. 104. ANNOUNCEMENT OF ACREAGE REDUCTION PROGRAMS FOR RICE.

Section 101B(e)(1) (7 U.S.C. 1441-2(e)(1)) is amended by striking subparagraph (C) and inserting the following new subparagraph:

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than December 1 of the calendar year preceding the year in which the crop is harvested (or, for the 1992 crop, as soon as practicable after the date of enactment of this subparagraph). The preliminary announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 31 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the rice crop described in paragraph (2)(A).".

SEC. 105. CORN AND SORGHUM BASES.

Section 105B(e)(2) (7 U.S.C. 1444f(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) CORN AND SORGHUM BASES.—Notwithstanding any other provision of this Act, with respect to each of the 1992 through 1995 crops of corn and grain sorghums—

"(i) the Secretary shall combine the permitted acreages established under subparagraph (D) for a farm for a crop year for corn and grain sorghums;

"(ii) for each crop year, the sum of the acreage planted and considered planted to corn and grain sorghum, as determined by the Secretary under this section and title V, shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year; and

"(iii) for each crop year, the sum of the corn and grain sorghum payment acres, as determined under subsection (c), shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn or grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum established for each crop year.".

SEC. 106. COVER CROPS ON REDUCED ACREAGE.

(a) RICE.—Section 101B(e)(4)(B) (7 U.S.C. 1441-2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(b) COTTON.—Section 103B(e)(4)(B) (7 U.S.C. 1444-2(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(c) FEED GRAINS.—Section 105B(e)(4)(B) (7 U.S.C. 1444f(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause (I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

(d) WHEAT.—Section 107B(e)(4)(B) (7 U.S.C. 1445b-3a(e)(4)(B)) is amended by striking clause (i) and inserting the following new clause:

"(i) REQUIRED.—

"(I) IN GENERAL.—Except as provided in subclause (II) and paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to, or maintain as, an annual or perennial cover 50 percent (or more at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more at the option of the producer) of the crop acreage base established for the crop.

"(II) ARID AREAS.—Subclause (I) shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(III) APPROVAL OF COVER CROPS AND PRACTICES.—The Secretary, in carrying out subclause

(I) in a particular State and in order to ensure that the land is sufficiently protected from weeds and wind and water erosion in accordance with subparagraph (A) in a manner that provides flexibility for producers in such State, shall approve appropriate crops planted or maintained as cover (including, if appropriate, native grasses and legumes or other vegetation) and establish a final seeding date for such cover crops. In making such determinations, the Secretary shall take into consideration the recommendations of the State technical committee for the State (established pursuant to section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861)), the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the Soil Conservation Service State Conservationist for the State.".

SEC. 107. COTTON USER MARKETING CERTIFICATES.

(a) ISSUANCE.—Section 103B(a)(5)(E) (7 U.S.C. 1444–2(a)(5)(E)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) ISSUANCE.—Subject to clause (iv), during the period beginning August 1, 1991, and ending July 31, 1996, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

"(I) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), established under subparagraph (C), does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary.";

(2) in clause (ii), by striking "marketing certificates" and inserting "marketing certificates or cash payments"; and

(3) by adding at the end the following new clause:

"(iv) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under clause (i) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subparagraph, exceeds the Northern Europe price by more than 1.25 cents per pound.".

(b) PREVAILING WORLD MARKET PRICE.—Section 103B(a)(5)(C)(ii) (7 U.S.C. 1444–2(a)(5)(C)(ii)) is amended by striking "and (B)" and inserting ", (B), and (E)".

SEC. 108. MALTING BARLEY.

Section 105B (7 U.S.C. 1444f) is amended—

(1) in subsection (e)(2)(G), by adding at the end the following new sentence: "The Secretary shall make an annual determination of whether to exempt such producers from compliance with any acreage limitation under this paragraph and shall announce such determination in the Federal Register."; and

(2) by striking subsection (p) and inserting the following new subsection:

"(p) MALTING BARLEY.—

"(1) ASSESSMENT REQUIRED.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on any producer of malting barley produced on a farm that is enrolled for the crop year in the production adjustment program under this section. The Secretary shall establish such assessment at not more than 5 percent of the value of the malting barley produced on the farm during each of the 1991 through 1995 crop years. The production per acre on which the assessment is based shall not be greater than the farm program payment yield.

"(2) VALUE OF MALTING BARLEY.—The Secretary may establish the value of such malting barley at the lesser of the State or national weighted average market price received by producers of malting barley for the first 5 months of the marketing year. In calculating the State or national weighted average market price, the Secretary may exclude the value of malting barley that is contracted for sale by producers prior to planting.

"(3) EXCEPTION TO ASSESSMENT.—In counties where malting barley is produced, participating barley producers may certify to the Secretary prior to computation of final deficiency payments that part or all of the producer's production was (or will be) sold or used for nonmalting purposes. The portion certified as sold or used for nonmalting purposes shall not be subject to the assessment. The Secretary may require producers to provide to the Secretary such documentation as the Secretary considers appropriate to carry out this paragraph.".

SEC. 109. DEFICIENCY PAYMENTS FOR WHEAT, BARLEY, AND OATS.

Section 114(c) (7 U.S.C. 1445j(c)) is amended—

(1) in the material preceding the paragraphs, by striking "sections" and inserting "section";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by striking paragraph (2) and inserting the following new paragraphs:

"(2) With respect to feed grains (excluding barley and oats), 75 percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) With respect to wheat, barley, and oats, the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year. Such projected payment shall be based on the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel with respect to wheat or 7 cents per bushel with respect to barley and oats.".

SEC. 110. MINOR OILSEED LOAN RATES.

Section 205(c) (7 U.S.C. 1446f(c)) is amended—

(1) in paragraph (3), by striking "that, in the case of cottonseed, in no event less" and inserting "in no event shall the level for such oilseeds (other than cottonseed) be less"; and

(2) by adding after and below paragraph (3) the following new sentence:

"To ensure that producers have an equitable opportunity to produce an alternative crop in areas of limited crop options, the Secretary may limit, insofar as practicable, adjustments in the loan rate established under paragraph (2) applicable to a particular region, State, or county for the purpose of reflecting transportation differentials such that the regional, State, or county loan rate does not increase or decrease by more than 9 percent from the basic national loan rate.".

SEC. 111. SUGAR.

(a) SUGAR PRICE SUPPORT AND MARKETING ASSESSMENTS.—Section 206 (7 U.S.C. 1446g) is amended—

(1) in subsection (e), by striking "announce the loan rate" and inserting "announce the basic loan rates for beet sugar and cane sugar";

(2) in subsection (f), by striking "Loans" and inserting "Except as provided in subsection (g), loans";

(3) by striking subsection (g) and inserting the following new subsection:

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—The Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in 9 months less the quantity of time that the first loan was in effect."; and

(4) in subsection (i)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during the 1992 through 1996 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during the 1992 through 1996 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable."; and

(B) in paragraph (4), by striking "collect or remit the reduction" and inserting "remit the assessment".

(b) SECURITY INTERESTS.—Subsection (b) of section 405 (7 U.S.C. 1425) is amended to read as follows:

"(b) SUGAR CANE AND SUGAR BEETS.—The security interests obtained by the Commodity Credit Corporation as a result of the execution of security agreements by the processors of sugarcane and sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived. The preceding sentence shall not affect the application of section 401(e)(2).".

(c) SUGAR INFORMATION REPORTING.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) DUTY OF PROCESSORS, REFINERS AND MANUFACTURERS TO REPORT.—

"(1) PROCESSORS AND REFINERS.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including such person's purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) MANUFACTURERS OF CRYSTALLINE FRUCTOSE.—All manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the manufacturer's distribution of crystalline fructose.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) DUTY OF PRODUCERS TO REPORT.—The Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively."; and

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking "data on imports," and inserting "data on production, imports,"; and

(B) by inserting "composite data on distributions of" after "sugar and".

(d) MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) and the quantity of sugar that would provide for reasonable carryover stocks;

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption in the United States during the year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in a refined form or in sugar containing products), based on the difference between—

"(i) the sum of the quantity of estimated consumption and reasonable carryover stocks; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SUGAR ALLOTMENTS.—

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a)(1)(C), that imports of sugar for consumption in the United States (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include any products derived from sugarcane, sugar beets, molasses or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part."; and

(3) in subsection (d)(4), by inserting after "the United States" the following: "(including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process)".

(e) ESTABLISHMENT OF MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

(1) in subsection (b)(1)—

(A) by striking "from the estimated sugar consumption" and inserting "from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the fiscal year)"; and

(B) in subparagraph (A), by striking "(representing minimum imports of sugar for consumption in the United States during the fiscal year)";

(2) in subsection (b)(2), by striking "prevent the accumulation of sugar acquired by" and inserting "avoid the forfeiture of sugar to";

(3) in subsection (f)—

(A) in the subsection heading, by striking "SUGARCANE ALLOTMENT" and inserting "CANE SUGAR ALLOTMENTS"; and

(B) by striking "allotted among the 5 States in the United States in which sugarcane is produced" and inserting "allotted, among the 5 States in the United States in which sugarcane is produced,";

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2), adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner, establish such marketing allotments for the fiscal year or any portion of such fiscal year, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.".

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this subsection, if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the allocation of an allotment, if any, next established for the processor shall be reduced by the quantity of the excess sugar marketed."; and

(5) by striking subsection (h) and inserting the following new subsection:

"(h) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment for beet sugar established under this section may only be filled with sugar processed from domestically grown sugar beets.".

(f) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) is amended—

(1) in subsection (a)(2) by striking "after such hearing" both places it appears and inserting "after a hearing, if requested by interested parties,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, a State cane sugar allotment established under section 359c(f) for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.".

(g) REASSIGNMENTS OF DEFICITS.—Section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee) is amended to read as follows:

"SEC. 359e. REASSIGNMENT OF DEFICITS.

"(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

"(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.".

(h) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)) is amended—

(1) in paragraph (1)(A), by striking "250 producers in such State" and inserting "250 sugarcane producers in the State (other than Puerto Rico)";

(2) in paragraph (2), by striking "establish proportionate shares for the crop of sugarcane that is harvested during" and inserting "establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugar-

cane that may be harvested on the farm for sugar or seed during"; and

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

"(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

"(C) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

"(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

"(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the fiscal year the proportionate share will be in effect.

"(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the fiscal year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of the quantity of sugar produced from that quantity of sugarcane involved in the violation. The quantity of sugarcane involved shall be determined based on the per-acre yield goal established under paragraph (3).".

(i) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

"(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f, the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f, the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 3 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share."; and

(2) in subsection (c)—

(A) by striking "hearing and"; and

(B) by inserting "required to be" after "proportionate share was".

(j) REGULATIONS.—Subsection (a) of section 359h of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359hh(a)) is amended to read as follows:

"(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part."; and

(k) APPEALS.—Paragraph (2) of section 359i(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii(b)(2)) is amended to read as follows:

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.".

SEC. 112. CROP ACREAGE BASE.

(a) PLANTING FLEXIBILITY.—Section 504(b)(1) (7 U.S.C. 1464(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) dry peas (limited to: Austrian peas, wrinkled, seed, green, yellow, and umatilla), lentils, or mung beans.".

(b) ADJUSTMENT OF BASES.—Section 503(h) (7 U.S.C. 1463(h)) is amended—

(1) by striking "BASES.—The county" and inserting the following: "BASES.—

"(1) IN GENERAL.—The county"; and

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

"(2) RESTORATION OF CROP ACREAGE BASE.—

"(A) IN GENERAL.—For the 1992 through 1995 crop years, the county committee shall allow an eligible producer to increase individual crop acreage bases on the farm, subject to subsection (a)(2), above the levels of base that would otherwise be established under this section, in order to restore the total of crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year.

"(B) ELIGIBLE PRODUCER DEFINED.—For the purposes of this paragraph, the term 'eligible producer' means a producer of upland cotton or rice who, the appropriate county committee determines—

"(i) was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with subsection (a)(2) and the change in the calculation of cotton and rice crop acreage bases to a 3-year formula as provided in this section; and

"(ii) has participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

"(C) REGULATIONS.—The Secretary shall issue regulations to carry out this paragraph.".

SEC. 113. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is further amended—

(1) in section 101B(c)(1)(B) (7 U.S.C. 1441-2(c)(1)(B)), by redesignating the second clause (ii) as clause (iii);

(2) in section 103B(a) (7 U.S.C. 1444-2(a))—

(A) in paragraph (1)(B), by striking "upland cotton," and inserting "upland cotton),"; and

(B) in paragraph (3), by striking "the date of enactment of this Act" and inserting "November 28, 1990";

(3) in section 103B(n)(1)(D) (7 U.S.C. 1444-2(n)(1)(D)), by striking "effective date of the proclamation" and inserting "date the special quota is established by the Secretary";

(4) in section 105B(c)(1)(B)(iii)(IV)(bb) (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) by striking "(bb) BARLEY CALCULATIONS.—" and inserting "(bb) BARLEY CALCULATIONS.—";

(5) in section 105B(g) (7 U.S.C. 1444f(g))—

(A) in paragraph (1), by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in paragraph (6)(E), by striking "is" both places it appears and inserting "are";

(6) in section 107B(g)(1) (7 U.S.C. 1445b-3a(g)(1)), by striking "subsection (d)" and inserting "subsection (e)";

(7) in section 110 (7 U.S.C. 1445e)—

(A) in subsection (n), by striking "the date of enactment of this section" and inserting "November 28, 1990";

(B) by redesignating subsection (o) as subsection (p) and transferring such subsection to the end of the section; and

(C) in the second subsection (k)—

(i) by redesignating such subsection as subsection (o); and

(ii) by striking "subsection (e)(1)" and inserting "this section";

(8) in section 201 (7 U.S.C. 1446), by redesignating subsection (b) (as amended by section 1161(b)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3521)) as subsection (c);

(9) in section 202 (7 U.S.C. 1446a), by striking "Administrator of Veterans' Affairs" both places it appears and inserting "Secretary of Veterans Affairs";

(10) in section 204(h)(3) (7 U.S.C. 1446e(h)(3)), by adding at the end the following new sentence: "A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).";

(11) in section 406(b)(4) (7 U.S.C. 1426(b)(4)), by striking "the date of enactment of this subsection" and inserting "November 28, 1990,";

(12) in section 426 (7 U.S.C. 1433e)—

(A) in subsection (c)—

(i) by striking "division" in paragraphs (1) and (6) and inserting "Division"; and

(ii) by striking "subsection (e)" in paragraph (7) and inserting "subsection (f)";

(B) in subsection (f), by striking "county or State" and inserting "State or county";

(C) in subsection (g), by striking "County Committees" and inserting "county committees"; and

(D) in subsection (h), by striking "section 8(e)" and inserting "section 8(b)"; and

(13) in section 503 (7 U.S.C. 1463), by adding at the end the following new subsection:

"(i) TEMPORARY TRANSFER OF BASES.—Notwithstanding any other provision of this sec-

tion, in the event of a natural disaster that prevents producers on a farm from planting all or a portion of a program crop acreage base on a farm, the Secretary may provide for the transfer for that crop year of some or all of the crop acreage bases between farms owned or operated by the same producers, under such terms and conditions as are determined appropriate by the Secretary.".

SEC. 114. MISCELLANEOUS AMENDMENTS RELATING TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) IN GENERAL.—The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3359) is amended—

(1) in section 1124 (7 U.S.C. 1445e note; 104 Stat. 3506), by striking "warehouse" both places it appears and inserting "warehousemen";

(2) in section 1156 (7 U.S.C. 1421 note), by striking subsection (b) and inserting the following new subsection:

"(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Secretary, in the sole discretion of the Secretary, determines in advance that such funds shall be used for this purpose.";

(3) in section 1353 (7 U.S.C. 1622 note; 104 Stat. 3567), by striking "et seq" and inserting "et seq.";

(4) in section 2241 (7 U.S.C. 1421 note; 104 Stat. 3963)—

(A) in subsection (a)(4)(A), by inserting "extra long staple cotton," after "upland cotton," each place it appears;

(B) in subsection (b)(1), by inserting "extra long staple cotton," after "upland cotton,"; and

(C) in subsection (b)(4), by inserting "extra long staple cotton," after "upland cotton,";

(5) in section 2243(b)(2)(A) (7 U.S.C. 1421 note; 104 Stat. 3966), by striking "to harvest" and inserting "for harvest";

(6) in section 2249 (7 U.S.C. 1421 note; 104 Stat. 3972), by striking "chapter" and inserting "subchapter" each place it appears;

(7) in section 2250(b)(1) (7 U.S.C. 1421 note; 104 Stat. 3973), by striking "cotton" and inserting "upland cotton, extra long staple cotton";

(8) in section 2257 (7 U.S.C. 1421 note; 104 Stat. 3974), by striking "chapter" and inserting "subchapter" each place it appears;

(9) in section 2258 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(10) in section 2259 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter";

(11) in section 2263 (7 U.S.C. 1421 note; 104 Stat. 3975), by striking "chapter" and inserting "subchapter" each place it appears;

(12) in section 2265 (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "chapter" and inserting "subchapter";

(13) in section 2266(a) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter";

(14) in section 2267 (7 U.S.C. 1421 note; 104 Stat. 3976)—

(A) in subsection (a), by striking "subchapter" and inserting "chapter" each place it appears; and

(B) in subsection (b), by striking "chapter 1" and inserting "this chapter";

(15) in section 2268(b) (7 U.S.C. 1421 note; 104 Stat. 3976), by striking "subchapter" and inserting "chapter"; and

(16) in section 2271 (7 U.S.C. 1421 note; 104 Stat. 3977), by striking "payment of" and inserting "payments or".

(b) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

(1) IN GENERAL.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(A) by redesignating subsection (q) as subsection (r); and

(B) by inserting after subsection (p) the following new subsection:

"(q) PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.—

"(1) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary (through the Commodity Credit Corporation) shall make available recourse loans, as determined by the Secretary, to producers on a farm who—

"(A) normally harvest all or a portion of their crop of feed grains in a high moisture state, hereinafter in this subsection defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of subsection (a);

"(B)(i) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

"(ii) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

"(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

"(D) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

"(E) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

"(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

"(A) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

"(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.".

(2) CONFORMING AMENDMENT.—Section 404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1444f-1) is repealed.

SEC. 115. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in section 8b(b)(2) (7 U.S.C. 608b(b)(2)), by striking "(7 U.S.C. 1445c-2)" and inserting "(7 U.S.C. 1445c-3)"; and

(2) in section 8c(5)(B)(ii) (7 U.S.C. 608c(5)(B)(ii)), is amended by striking "and," before clause (f) and inserting ", and".

SEC. 116. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938.

The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 319(l) (7 U.S.C. 1314e(l))—

(A) by inserting "in a State" after "one farm";

(B) by striking "of Tennessee"; and

(C) by adding at the end the following new sentence: "This subsection shall apply only to the States of Tennessee and Virginia.";

(2) in section 374(a) (7 U.S.C. 1374(a))—

(A) by inserting after "30 inch rows" the following: "(or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows)"; and

(B) by adding at the end the following new sentence: "For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops."; and

(3) in section 379(a) (7 U.S.C. 1379(a))—

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; or";

(C) by striking "; or" at the end of paragraph (6) and inserting a period; and

(D) by redesignating paragraph (7) as subsection (c), moving such subsection to appear after subsection (b), and conforming the left margin of such subsection to subsection (b).

SEC. 117. SECTION REDESIGNATION.

(a) SECTION REDESIGNATION.—Sections 359 and 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359 and 1359a) are redesignated as sections 358d and 358e, respectively.

(b) CONFORMING AMENDMENTS AS RESULT OF REDESIGNATIONS.—

(1) PRICE SUPPORT PROGRAM.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(A) in section 108A(3)(A) (7 U.S.C. 1445c-2(3)(A)), by striking "section 359" each place it appears and inserting "section 358d"; and

(B) in section 108B(c)(1) (7 U.S.C. 1445c-3(c)(1)), by striking "sections 359 and 359a" each place it appears and inserting "sections 358d and 358e".

(2) MARKETING QUOTAS.—The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(A) in section 358(v)(3) (7 U.S.C. 1358(v)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(B) in section 358-1(e)(3) (7 U.S.C. 1358-1(e)(3)), by striking "section 359(c)" and inserting "section 358d(c)";

(C) in section 358d (7 U.S.C. 1359), as redesignated by subsection (a)—

(i) by striking "section 359(a)" in subsection (b) and inserting "subsection (a)"; and

(ii) by striking "section 108B" each place it appears in subsections (m)(1)(C), (p)(1), and (r)(2)(A) and inserting "section 108A"; and

(D) in section 358e(b)(1) (7 U.S.C. 1359a(b)(1)), as redesignated by subsection (a), by striking "section 359(c)" and inserting "section 358d(c)".

SEC. 118. OTHER MISCELLANEOUS COMMODITY AMENDMENTS.

(a) MISSING LANGUAGE.—Section 5(i)(3) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking "(42 U.S.C. 1396d(5)))" and inserting "(42 U.S.C. 1396d(5))))".

(b) MISSING LANGUAGE.—Section 1001(2)(B)(iv) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)(iv)) is amended by inserting "section" before "107B(c)(1)".

(c) EXTRA LANGUAGE.—Section 1001A(a)(2) of the Food Security Act of 1985 (7 U.S.C. 1308-1(a)(2)) is amended by striking "0 to".

(d) AMENDMENT TO FOOD AND AGRICULTURE ACT OF 1962.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by adding at the end the following sentences: "The authority provided in this section shall be

in addition to any other authority provided to the Secretary under any other Act. This section shall be applicable to an action taken by a representative of the Secretary that occurs before, on, or after November 28, 1990.".

(e) AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Section 102(b)(1)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1(b)(1)(B)) is amended by striking "Commodity Credit Corporation" and inserting "Secretary".

(f) CLARIFICATION OF AMENDMENT.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "SEC." and all that follows through "If payments" in the first sentence of subsection (a) and inserting the following:

"SEC. 704. PAYMENT AS MEANS OF PRICE SUPPORT.

"(a) USE OF PAYMENTS.—If payments".

SEC. 119. SENSE OF CONGRESS REGARDING IMPORTED BARLEY AND OATS.

(a) FINDINGS.—Congress finds that—

(1) significant quantities of barley and oats are currently being imported into the United States from Norway, Sweden, and Finland origins, and there is reason to believe that such imports will continue in the future;

(2) such imported barley and oats are being purchased at a price artificially established at a level significantly below that of domestically produced barley and oats due to unfair and predatory export subsidies and schemes employed by the exporting countries of origin; and

(3) it is likely that the continued importation of such quantities of subsidized barley and oats will significantly and adversely affect producers of domestic barley and oats and impair the operations of existing farm commodity programs for barley and oats in the United States.

(b) SENSE OF CONGRESS.—Based on these findings, it is the sense of Congress that the Secretary of Agriculture and the President of the United States should immediately and aggressively employ all available options under existing laws, including those under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in order to prevent material damage to the producers of domestic barley and oats and to prevent material interference with the programs established pursuant to section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f).

SEC. 120. PAYMENT OPTIONS FOR WINTER WHEAT PRODUCER.

Notwithstanding any other provision of law, if the producers on a farm were prevented from planting winter wheat in 1990 for harvest in 1991 as the result of drought, the producers shall be eligible to exercise the payment options described in section 107B(p) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(p)) for the 1991 crop of wheat, whether or not the producers timely filed a request for prevented planting credit with the Secretary of Agriculture.

SEC. 121. MODIFICATION OF MILK PRODUCTION TERMINATION PROGRAM.

(a) CERTAIN TRANSFERS AUTHORIZED.—If the Secretary of Agriculture determines that a natural disaster renders unusable the land or milk production facilities of the producers on a farm, the Secretary shall allow the producers to transfer the production unit (including dairy animals and equipment) to a farm idled under the milk production termination program established under section 201(d)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(3)), without penalty, if the producers on the farm agree to comply with all terms and conditions of the program contract for the remainder of the contract period.

(b) APPLICATION.—This section shall apply with respect to any natural disaster occurring during the period beginning on October 1, 1990, and ending on February 1, 1991.

SEC. 122. COTTON CLASSING FEES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows: "Effective for each of fiscal years 1992 through 1996, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.".

(b) FEES.—The first proviso in the second sentence of section 3a of such Act is amended—

(1) by striking clauses (1) and (2) and inserting the following new clauses: "(1) the uniform per bale classification fee to be collected from producers, or their agents, for the classification service in any year shall be the fee established in the previous year for the prevailing method of classification service, exclusive of adjustments to the fee made in the previous year under clauses (2), (3), and (4), and as may be adjusted by the percentage change in the implicit price deflator for the gross national product as indexed during the most recent 12-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year below the level of 12,500,000 running bales, or decreased by a quantity not to exceed 1 percent for every 100,000 running bales, or portion thereof, that the Secretary estimates will be classed by the United States Department of Agriculture in the crop year above the level of 12,500,000 running bales;"; and

(2) by striking clause (7) and inserting the following new clause: "(7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies.".

(c) CLARIFICATION OF SERVICES.—The third sentence of section 3a of such Act is amended to read as follows: "Classification services, other than the prevailing method, provided at the request of the producer shall not be subject to the restrictions specified in clauses (1), (2), and (3) of the preceding sentence.".

(d) REPEAL OF STUDY ON PROCESSING CERTAIN COTTON GRADES.—Section 3 of the Uniform Cotton Classing Fees Act of 1987 (7 U.S.C. 473a note) is repealed.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (c), and the amendments by subsections (a), (b), and (c), shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 1996.

SEC. 123. SENSE OF CONGRESS REGARDING TARGETED OPTION PAYMENTS.

(a) FINDINGS.—Congress finds that—

(1) thousands of agricultural producers are facing extremely difficult economic times and low commodity prices;

(2) the conditions on each farm are unique and require a unique plan to meet the income, conservation, and soil and weather conditions of the farm; and

(3) agricultural producers need the maximum possible flexibility to tailor the agricultural price support and production adjustment program to their farms' individual needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should offer targeted option payments for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice as authorized by sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e)(3), 1444f(e)(3), 1444-2(e)(3), and 1441-2(e)(3)), respectively.

SEC. 124. TRANSFER OF PEANUT QUOTA UNDERMARKETINGS.

Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(including any applicable undermarketings)" after "any part of the poundage quota"; and

(B) by inserting "(including any applicable undermarketings)" after "any such lease of poundage quota";

(2) in the first sentence of paragraph (2), by striking "for the farm" and inserting "(including any applicable undermarketings)"; and

(3) in paragraph (3), by inserting after "farm poundage quota" the following: "(including any applicable undermarketings)".

SEC. 125. COTTON FUTURES CONTRACTS.

Subsection (c)(1) of the United States Cotton Futures Act (7 U.S.C. 15b(c)(1)) is amended by inserting before the period at the end the following: ", except that any cotton futures contract that, by its terms, is settled in cash is excluded from the coverage of this paragraph and Act".

SEC. 126. REPORTING ON LAMB PRICE AND SUPPLY REPORTING SERVICES OF THE DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on measures that are necessary to improve the lamb price and supply reporting services of the Department of Agriculture, including recommendations to establish a complete information gathering system that reflects the market structure of the national lamb industry.

(b) FACTORS.—In preparing the report, the Secretary shall examine measures to improve information on—

(1) price reporting series of wholesale, retail, box, carcass, pelt, offal, and live lamb sales in the United States, including markets in—

(A) California (including San Francisco);

(B) the East Coast region (including Washington, D.C.);

(C) the Midwest region (including Chicago, Illinois);

(D) Texas;

(E) the Rocky Mountain region; and

(F) Florida;

(2) sheep and lamb inventories, including on-feed reports;

(3) the price and supply relationships between retailers and breakers;

(4) the viability of voluntary or mandatory reporting for sheep prices; and

(5) information on the import and export of sheep, analyzed by cut, carcass, box, breeder stock, and sex.

SEC. 127. COTTON FIRST HANDLER MARKETING CERTIFICATES.

Section 103B(a)(5)(B) (7 U.S.C. 1444-2(a)(5)(B)) is amended—

(1) by inserting "or cash payments" after "marketing certificates" each place it appears in clauses (i) and (ii); and

(2) in clause (iii), by inserting "or cash payment" after "certificate".

TITLE II—CONSERVATION

SEC. 201. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENTS TO SECTION 1451.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822) is amended—

(1) in subsection (b)(1)(D), by striking "(e)" and inserting "(f)";

(2) in subsection (d), by inserting "each of" before "the calendar";

(3) in subsection (f)(5), by striking "assisting" and inserting "assist"; and

(4) in subsection (h)(7)(B)—

(A) in clause (i), by inserting before the period at the end of the first sentence the following: ", but only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres under an amendment made by section 1101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1)"; and

(B) in clause (ii), by striking "under" and all that follows through "Agricultural" and inserting "under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural".

(b) AMENDMENTS TO SECTION 1466.—Section 1466 of such Act (7 U.S.C. 4201 note) is amended—

(1) in subsection (c), by striking "Funds" and inserting "funds"; and

(2) in each of subsections (e) and (f), by striking "section (b)" and inserting "subsection (b)".

(c) AMENDMENT TO SECTION 1468(a)(2).—Section 1468(a)(2) of such Act (7 U.S.C. 4201 note) is amended by striking "Funds" and inserting "funds".

(d) AMENDMENTS TO SECTION 1473(a).—Section 1473(a) of such Act (7 U.S.C. 5403(a)) is amended—

(1) in paragraph (1), by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(2) in paragraph (2), by striking "subparagraph (A)" " and inserting "paragraph (1)".

(e) AMENDMENT TO SECTION 1483(c).—Section 1483(c) of such Act (7 U.S.C. 5503(c)) is amended by inserting "and" after "Animal".

(f) AMENDMENT TO SECTION 1485.—Section 1485 of such Act (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "Administrator" both places it appears " and inserting "Director";

(2) in subsection (a)(3), by striking "Atmospheric Agency, the" " and inserting "Atmospheric Administration, the"; and

(3) in subsection (b)(3), by striking "subsection (a)" " and inserting "this subsection".

(g) AMENDMENTS TO SECTION 1499.—Section 1499 of such Act (7 U.S.C. 5506) is amended—

(1) in the 4th sentence of subsection (a)—

(A) by inserting "Agricultural" before "Environmental"; and

(B) by striking "1612" and inserting "1472";

(2) in subsection (b), by striking "AFFECT" and inserting "EFFECT"; and

(3) in subsection (c), by inserting "and" after "Animal".

SEC. 202. AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

The 14th sentence of the 5th undesignated paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by inserting ", except that, in the case of a person elected to be a national officer or State president of the National Association of Farmer Elected Committeemen, the limitation shall be four consecutive terms" before the period.

SEC. 203. FARMS FOR THE FUTURE.

The Farms for the Future Act of 1990 (7 U.S.C. 4201 note) is amended to read as follows:

"CHAPTER 2—FARMLAND PROTECTION

"SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

"(a) SHORT TITLE.—This chapter may be cited as the 'Farms for the Future Act of 1990'.

"(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

"(c) DEFINITIONS.—As used in this chapter:

"(1) ALLOWABLE INTEREST RATE.—The term 'allowable interest rate' refers to the interest rate that the State trust fund pays on each eligible loan.

"(2) ELIGIBLE LOAN.—The term 'eligible loan' means each loan made by lending institutions to each State trust fund to further the purposes of this chapter, and the proceeds from any issuance of obligations, or other bonded indebtedness, of any eligible State, the State trust fund, or any agency of an eligible State, except that no eligible loan shall bear an interest rate in excess of 10 percent per year.

"(3) ELIGIBLE STATE.—The term 'eligible State' means—

"(A) the State of Vermont; and

"(B) at the option of the Secretary and subject to appropriations, any State that on or before August 1, 1991—

"(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

"(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

"(4) LENDING INSTITUTION.—The term 'lending institution' means any Federal or State chartered bank, savings and loan association, cooperative lending agency, other legally organized lending agency, State government or agency, political subdivision of a State, or any nonprofit conservation organization.

"(5) PROGRAM.—The term 'program' means the farmland preservation program established under this chapter to be known as the 'Agricultural Resource Conservation Demonstration Program'.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(7) STATE.—The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

"(8) STATE TRUST FUND.—The term 'State trust fund' means a trust fund or an account established by an eligible State, or other public instrumentality of the eligible State, approved to participate by the Secretary in the program under application procedures set forth in section 1466(j) or 1468, in which Federal funds or eligible loans received under this chapter are deposited, or will be deposited, for use by the trust fund.

"SEC. 1466. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—

"(1) PURPOSE.—The Secretary shall establish and implement a program, to be known as the 'Agricultural Resource Conservation Demonstration Program', to provide Federal guarantees and interest assistance for loans made by lending institutions to State trust funds.

"(2) ASSISTANCE.—Under the program, the Secretary shall guarantee for a period of 10 years the timely payment of the principal amount and interest due on each eligible loan made by lending institutions to State trust funds and shall for each such 10-year period subsidize the interest on the loans at the allowable interest rate for the first 5 years after the loan is made, and at no less than 3 percentage points for the second 5 years under procedures described in subsection (b).

"(b) MANDATORY ASSISTANCE TO EACH ELIGIBLE STATE TRUST FUND.—The Secretary shall—

"(1) fully guarantee with the full faith and credit of the United States each eligible loan made by lending institutions to each State trust fund under procedures established by the Secretary;

"(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under procedures developed by the Secretary, during each of the first 5 years after the date on which each such loan is made; and

"(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each loan the State trust fund receives from any given lending institution, as determined under procedures established by the Secretary.

"(c) FUNDING.—

"(1) ISSUANCE OF STOCK.—The Secretary of Agriculture shall make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. The stock shall not pay dividends and shall not be redeemable.

"(2) PURCHASE OF STOCK.—The Secretary of the Treasury shall provide the funding necessary to implement this chapter. The Secretary of the Treasury shall purchase any stock of the Secretary of Agriculture issued to implement this chapter. The Secretary of the Treasury shall use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which the securities may be issued under such chapter are extended to include the purchase of stock issued by the Secretary of Agriculture to implement this chapter with respect to each eligible State. The Secretary of Agriculture shall make and issue such stock as is necessary to fund this chapter to the Secretary of Treasury who shall purchase the stock within 1 day of the stock being offered by the Secretary of Agriculture.

"(3) COMMODITY CREDIT CORPORATION.—If the Secretary of Treasury fails to comply with the requirements of this chapter or otherwise fails to provide the funding required by this chapter, for the eligible State described in section 1465(c)(3)(A), notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, services and facilities of the Commodity Credit Corporation to carry out the requirements of this chapter. The procedure described in paragraph (2) shall be used to reimburse the Corporation for funds expended to carry out this paragraph.

"(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify the Secretary of the Treasury, in writing, each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall purchase stock offered by the Secretary under subsection (c) on the day offered and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer the program.

"(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in section (b).

"(f) REGULATIONS.—Except regarding the eligible State described in section 1465(c)(3)(A), the Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

"(1) the application procedures for eligible States;

"(2) the factors to be used in approving applicants;

"(3) procedures for the prompt payment of the obligations of the Secretary under section (b);

"(4) recordkeeping requirements for approved State trust funds;

"(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

"(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

"(7) any other rules necessary and appropriate to carry out the program.

"(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

"(h) ELIGIBLE USES FOR GUARANTEED LOAN FUNDS.—

"(1) IN GENERAL.—Funds guaranteed under this chapter, and any earnings of the State trust funds, may be used—

"(A) to purchase development rights, conservation easements or other types of easements, or to purchase agricultural land in fee simple or some lesser estate in land;

"(B) to pay all reasonable and customary costs including appraisal, survey and engineering fees, and legal expenses;

"(C) to pay the costs of enforcing easements or land use restrictions;

"(D) to cover the costs of complying with any regulations issued by the Secretary under this program and the costs of implementing the farmland plan of operation, except that the guaranteed loan proceeds shall not be used to pay overhead expenses of the State trust fund (rent, utilities, salaries, wages, insurance premiums, and the like); and

"(E) to generate earnings, to be used for future farmland preservation efforts, through investments in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof or by depositing funds in any member bank of the Federal Reserve System or any Federally insured State nonmember bank.

"(2) COLLATERAL FOR LOANS.—To the extent consistent with relevant banking laws and practices, the investments or deposits described in paragraph (1)(E) may serve as collateral for loans made to, or on behalf of, the State trust fund.

"(i) STATE USE OF GUARANTEED LOAN FUNDS.—The Secretary may issue regulations or procedures requiring each State trust fund to report to the Secretary regarding the uses of the loans guaranteed by the Secretary and the Secretary may monitor the uses of the funds to ensure that the loans are used for purposes related to this chapter. Neither the Secretary or the lending institution shall have the power to require approval of each specific use of the loans guaranteed by the Secretary, the specific terms of each use of the loan funds, or the specific provisions of each purchase or investment made with loan guaranteed by the Secretary. The Secretary may require that each State trust fund provide a State farmland preservation plan of operation to the Secretary setting forth the plans for administering the program in the State and may require each State trust fund to periodically report to the Secretary on the purchases of interests in farmland and on other specific uses of the funds.

"(j) SPECIAL RULES FOR THE PILOT PROJECT STATE.—Notwithstanding any other provisions of this chapter, the following special rules shall apply to the eligible State described in section 1465(c)(3)(A):

"(1) PROVISION OF LOAN GUARANTEE AND INTEREST ASSISTANCE AGREEMENT.—Within 30 days of the date a State trust fund in the eligible State receives a commitment for each eligible loan from a lending institution, the Secretary shall provide the lending institution with the loan guarantee and the interest assistance agreement so that the lending institution may disburse the full amount of the loan proceeds to the State trust fund on the date of loan closing to carry out this program. After the loan closing, the lending institution shall have no obligation to monitor or approve the use of loan proceeds by the State trust fund.

"(2) APPROVAL OF APPLICATION.—The Secretary shall annually approve the completed application from the eligible State within 30 days after receipt if the application sets forth the general goals and policies of the State trust fund. The Secretary shall provide the Federal assistance required under this chapter beginning on the date the application or plan is approved.

"(3) AMOUNT OF GUARANTEES.—The Secretary shall calculate the total amount of guarantees provided for fiscal year 1992 in an amount equal to double the sum of—

"(A) the amount that was made available in fiscal year 1991 to the State trust fund (the Vermont Conservation and Housing Board) by the pilot project State, political subdivisions thereof, charitable organizations, private persons, or any other entity, in addition to the proceeds from the sale of obligations of the State related to the purposes of the State trust fund and the fair market value of donations of interests in land to the State trust fund; and

"(B) the matching contribution calculated under section 1468(c) for the State.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) OPERATION.—Each State trust fund may operate through nonprofit corporations, municipalities, or other political subdivisions of States in carrying out the purposes of the program established in this chapter.

"(2) EARNINGS.—Earnings on funds of each State trust fund may be used for any purposes related to carrying out the operations of the trust fund in a manner not inconsistent with the requirements of this chapter or the farmland preservation plan.

"SEC. 1467. FEDERAL ACCOUNTS AND COMPLIANCE.

"(a) ACCOUNTS.—To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the 'Agricultural Resource Conservation Revolving Fund' (hereafter referred to in this chapter as the 'Fund'), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

"(b) COMPLIANCE.—If the Secretary determines that any State trust fund is failing to comply, to a significant degree, with any requirements of this chapter, the Secretary shall report the failure to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate, shall fully investigate the matter, may decline to provide additional Federal guarantees or interest subsidies to the State trust fund, and shall take other steps as may be appropriate to prevent the use of Federal assistance in a manner not consistent with this chapter.

"SEC. 1468. APPLICATIONS AND ADMINISTRATION.

"(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State described in section 1465(c)(3)(B) shall—

"(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

"(2) agree that the State trust fund will use any Funds provided by the Secretary under this chapter in a manner that is consistent with the chapter and the regulations promulgated by the Secretary; and

"(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

"(b) ANNUAL APPLICATIONS.—Eligible States described in section 1465(c)(3)(B) may apply for Federal assistance under this chapter on an annual basis. The Secretary shall approve or disapprove each application for assistance, and notify the applicant of the action not later than 30 days after receipt of a complete application.

"(c) MATCH AND MAXIMUM AMOUNT.—

"(1) IN GENERAL.—The total amount of any guarantees provided by the Secretary under this program for each eligible State shall equal an amount that is equal to double the amount that is, or shall be, made available to the trust fund in each such eligible State by the State, political subdivisions thereof, charitable organizations, private persons, or any other entity, for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

"(2) EARNINGS.—Earnings of the State trust fund and funds expended by the State or the State trust fund prior to loan closing for purposes consistent with this chapter, and in the same fiscal year, may be considered as matching funds.

"(3) OBLIGATIONS.—Proceeds from the sale of tax-exempt general obligation bonds, or other obligations, of the State or State trust fund shall be an allowable source of matching funds under this chapter for the same fiscal year.

"(4) LAND.—The fair market value of any donation of an interest in land to the State trust fund, or a charitable organization working with the State trust fund, may be considered as matching funds, for the same fiscal year, if—

"(i) the fair market value is based on an appraisal determined to be adequate by the State trust fund; and

"(ii) the donation is consistent with the State farmland preservation plan,

except that the value of land donated to charitable organizations by the State trust fund shall not be included as part of the match.

"(d) CLARIFICATION OF FEDERAL LAW.—Sellers of land, or of interests in land, to any State trust fund are not, and shall not be considered by the Secretary as, recipients or beneficiaries of Federal assistance.

"SEC. 1469. REPORT.

"Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

"SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

"(a) IN GENERAL.—This chapter shall become effective on October 1, 1990.

"(b) AGREEMENT WITH VERMONT.—Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State.

"(c) REGULATIONS.—Not later than December 31, 1991, the Secretary of Agriculture shall publish in the Federal Register interim final regulations to implement this chapter. The regulations shall not require each State's program to give a priority to the acquisition of land, or interests in land, that is subject to significant urban pressure.

"SEC. 1471. COMPTROLLER GENERAL REPORTS.

"On December 1 of each of the years 1991 through 1996, the Comptroller General of the United States shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on whether the Secretary of Agriculture is complying with the requirements of this chapter. The report shall include information concerning loans guaranteed under this chapter and the steps the Secretary of Agriculture has taken to comply with this chapter.

"SEC. 1472. SPECIAL RULES FOR ISSUANCE OF STOCK FOR 1992.

"The Secretary shall issue the stock required to be issued to the Secretary of Treasury under this chapter with respect to the eligible State described in section 1465(c)(3)(A), for fiscal year 1992, on or before December 20, 1991.".

SEC. 204. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking "fall and winter"; and

(2) by striking "for an applicable reduction in rental payment" and inserting "and occurs during the 7-month period in which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of such incidental grazing".

TITLE III—TRADE RELATED TECHNICAL CORRECTIONS

SEC. 301. SUPERFLUOUS PUNCTUATION IN FARMER TO FARMER PROVISIONS.

Section 501(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737(a)(3)) is amended by striking the comma after "public".

SEC. 302. PUNCTUATION CORRECTION IN ENTERPRISE FOR THE AMERICAS INITIATIVE.

Section 603(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738b(a)(3)) is amended by inserting a hyphen between "Inter" and "American".

SEC. 303. SPELLING CORRECTION IN SECTION 604.

Section 604(a)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c(a)(2)) is amended by striking "AVALIABILITY" and inserting "AVAILABILITY".

SEC. 304. MISSING WORD IN SECTION 606.

Section 606(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738e(c)) is amended by inserting "accounts" after "Corporation".

SEC. 305. PUNCTUATION ERROR IN SECTION 607.

Section 607(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738f(a)) is amended by striking the quotation mark before "Fund" and inserting it after "Fund" the last place it appears.

SEC. 306. TYPOGRAPHICAL CORRECTION IN SECTION 612.

Section 612(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C 1738k(a)(1)) is amended by striking "462), and—" and inserting "2281 et seq.);".

SEC. 307. ERRONEOUS QUOTATION.

Section 1515(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "title I and" and inserting "titles I and".

SEC. 308. PUNCTUATION CORRECTION.

Section 103(d)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5603(d)(2)) is amended by inserting a close parenthesis mark before the final period.

SEC. 309. DATE CORRECTION.

Section 203(g)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(g)(3)) is amended by striking "the date of enactment of this Act" and inserting "November 28, 1990,".

SEC. 310. MISSING SUBTITLE HEADING CORRECTION.

Title II of the Agricultural Trade Act of 1978 is amended by inserting after the title heading the following:

"Subtitle A—Programs".

SEC. 311. REDESIGNATION OF SUBSECTION.

Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by redesignating subsection (g) as subsection (f).

SEC. 312. DATE CORRECTION TO SECTION 404.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is amended by striking out "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 313. DATE CORRECTION TO SECTION 416.

Section 416(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5676(e)) is amended by striking out "the effective date of this section" and inserting "November 28, 1990".

SEC. 314. REDESIGNATION OF SECTION.

The Agricultural Trade Act of 1978 is amended by redesignating section 506 (7 U.S.C. 5695) as section 505.

SEC. 315. CROSS REFERENCE CORRECTION.

Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is amended by striking "section 104" each place it appears and inserting "section 103".

SEC. 316. PLACEMENT CLARIFICATION.

Section 1532 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "thereof" and inserting "of title I".

SEC. 317. PUNCTUATION CORRECTION.

Section 108(b) of the Agricultural Act of 1954 (7 U.S.C. 1748) is amended by striking the period at the end of paragraph (1)(B) and inserting a semicolon.

SEC. 318. ELIMINATION OF OBSOLETE CROSS REFERENCE.

Section 108(b)(4) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(4)) is amended by striking "the trade assistance office" and all that follows through "section 201),".

SEC. 319. CROSS REFERENCE CORRECTION.

Section 407(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)) is amended by inserting "title I of" before "this Act" each place it appears in paragraphs (2)(B) and (3).

SEC. 320. CORRECTING CLERICAL ERRORS IN SECTION 204 OF THE AGRICULTURAL TRADE ACT OF 1978.

Section 204(d) of the Agricultural Trade Act of 1978 (7 U.S.C. 5624) is amended—

(1) by striking "AGENCY OR PRIVATE PARTIES" in the heading and inserting "AGENCIES"; and

(2) by striking "government" and inserting "Government".

SEC. 321. CAPITALIZATION CORRECTION.

Section 403(i)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(i)(2)(C)) is amended by striking "Committees" and inserting "committees".

SEC. 322. CORRECTION OF ERROR IN DATE.

Section 409, 410(a), 410(b), 410(c), and 411(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c, 1736d(a), 1736d(b), 1736d(c), and 1736e(e)) are each amended by striking "the date of enactment of this Act" and inserting "November 28, 1990".

SEC. 323. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 406(b)(5)(D) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(b)(5)(D)) is amended by striking "items" and inserting "time".

SEC. 324. CROSS REFERENCE CORRECTION.

Section 407(c)(1)(A) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(A)) is amended by striking "this section" and inserting "title I".

SEC. 325. ELIMINATION OF SUPERFLUOUS WORD.

Section 407(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)(C)) is amended by striking "other".

SEC. 326. CROSS REFERENCE CORRECTION.

Section 411(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e(a)) is amended by striking "this title" and inserting "title I".

SEC. 327. AMENDMENT TO SECTION 602.

Section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)) is amended—

(1) in paragraph (1), by striking "designate as produced" and inserting "designate produced"; and

(2) in paragraph (2), by striking "in accordance with subsection (c)".

SEC. 328. SECTION 407 CORRECTIONS.

(a) SUBSECTION (c)(4).—Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended—

(1) by inserting "provides or" after "in which such person"; and

(2) by striking "if the person is" and inserting "of a person".

(b) ELIMINATION OF WORD.—Section 407(d)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking "other".

SEC. 329. SECTION 407(b) AMENDMENT.

Section 407(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(b)(1)) is amended by striking "or agricultural commodity donated".

SEC. 330. SUPPLEMENTAL VIEWS IN ANNUAL REPORT.

Section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738m) is amended—

(1) by striking "Not later" and inserting "(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—No later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this title by December 31 for transmission with the annual report.".

SEC. 331. CONSULTATIONS WITH CONGRESS.

The Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after section 614 (7 U.S.C. 1738m) the following:

"SEC. 615. CONSULTATIONS WITH CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this title and the eligibility of countries for benefits from the Facility under this title.".

SEC. 332. STATUTE DESIGNATION.

Section 407(d)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(d)(4)) is amended by striking "the Federal Property Act of 1949, as amended," and inserting "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)".

SEC. 333. CORRECTION OF PLACEMENT AND INDENTATION OF SUBPARAGRAPH.

Subparagraph (B) of section 1514(5) of the Food, Agriculture, Conservation, and Trade Act of 1990, 104 Stat. 3663) is amended to read as follows:

"(B) by inserting after subparagraph (E) the following new subparagraph:

"'(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.'".

SEC. 334. EXPORT CREDIT GUARANTEE PROGRAM.

Section 202(i) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(i)) is amended by striking "or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that" and inserting "issued by the Commodity Credit Corporation under this section if it is determined by the Corporation, at the time of the assignment, that".

SEC. 335. AMENDMENTS TO THE FOOD FOR PROGRESS PROGRAM.

(a) IN GENERAL.—Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended to read as follows:

"SEC. 1110. FOOD FOR PROGRESS PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Food for Progress Act of 1985'.

"(b) ESTABLISHMENT.—There is established a program to be known as the 'Food for Progress Program' (hereafter in this section referred to as the 'Program').

"(c) AGREEMENTS.—The President may enter into agreements with eligible countries (as described in subsection (e)), or with private voluntary organizations, businesses, or cooperatives, to provide agricultural commodities under this section to support the democratization of the governments of the countries, the granting of individual liberties to the people of the countries, the development of a free market economy, and the promotion of economic growth and freedom within the countries.

"(d) TYPES OF ASSISTANCE.—Commodities made available under this section may be provided on a grant basis, on credit terms, or on such other terms as are determined by the President.

"(e) ELIGIBLE COUNTRIES.—To be eligible to participate in the program established under this section, a country shall, as determined by the President—

"(1) have begun the transformation of the system of government of the country from a nonrepresentative type of government to a representative democracy; or

"(2) have made commitments to introduce or expand free enterprise elements in the economy of the country.

"(f) COMMODITY CREDIT CORPORATION.—

"(1) DUTIES.—The Commodity Credit Corporation shall—

"(A) make such agricultural commodities available to the President as are determined under section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) to be available to carry out agreements entered into by the President under this section; and

"(B) finance the sale and exportation of commodities made available under this section to the extent necessary to carry out agreements entered into by the President under this section.

"(2) PURCHASE OF COMMODITIES.—The Commodity Credit Corporation may purchase commodities for use under this section if—

"(A) the Commodity Credit Corporation does not hold stocks of the commodities at the time of the purchase; or

"(B) Commodity Credit Corporation stocks at the time of the purchase are insufficient to satisfy commitments made in agreements entered into under this section and the commodities are needed to fulfill the commitments.

"(3) EXPENSES.—In connection with the Program under this section, the Commodity Credit Corporation may pay—

"(A) the cost of acquiring the commodities;

"(B) the costs associated with packaging, enrichment, preservation, and fortification of the commodities;

"(C) the processing, transportation, handling, and other incidental costs up to the time of the delivery of the commodities free on board vessels in United States ports;

"(D) the ocean freight charges from United States ports to designated ports of entry abroad;

"(E) the costs associated with transporting the commodities from United States ports to designated points of entry abroad in the case—

"(i) of landlocked countries;

"(ii) of ports that cannot be used effectively because of natural or other disturbances;

"(iii) of the unavailability of carriers to a specific country; or

"(iv) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(F) in the case of commodities for urgent and extraordinary relief requirements (including prepositioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(G) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"(4) LIMITATION ON EXPENDITURES.—No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of any commodities) in each fiscal year shall be used to carry out this section unless the excess is authorized in advance in appropriations Acts.

"(5) TITLE I TRANSFERS.—Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to carry out this section with respect to commodities made available under such Act.

"(g) AGREEMENTS.—If the President enters into an agreement with a private voluntary organization, business, or cooperative under this section, the agreement—

"(1) shall require the organization, business, or cooperative to use any commodities provided to it under this section to carry out the purposes of this section;

"(2) may permit the organization, business, or cooperative to sell or barter any commodities provided to it under this section, and use the amounts generated through the sale or barter—

"(A) to promote the establishment and expansion of private enterprise in the recipient country;

"(B) to aid in the availability of food in the recipient country through improved agricultural research, processing, transportation and marketing systems, and instruments of production in the country; and

"(C) to help develop commercial markets for the purchase of agricultural commodities; and

"(3) shall contain such other terms and conditions as are determined necessary by the President.

"(h) MULTIYEAR BASIS.—An agreement entered into under this section may provide for commodities to be made available on a multiyear basis subject to the availability of funds and commodities.

"(i) TRANSSHIPMENT OF COMMODITIES.—An agreement entered into under this section shall prohibit the resale or transshipment of the commodities made available under the agreement to other countries, unless the resale or transshipment is authorized by the President.

"(j) DISPLACEMENT.—In carrying out this section, the President shall, to the extent practicable, avoid the displacement of any sales of United States agricultural commodities that would otherwise be made to eligible countries and avoid disrupting foreign and domestic markets for United States agricultural commodities.

"(k) RESTRICTIONS ON AGREEMENTS.—No agreement shall be entered into under this section if the agreement would result in—

"(1) the inability of the Commodity Credit Corporation to provide sufficient commodities to carry out food assistance programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or domestic commodity and disaster assistance programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or agricultural trade programs established under the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.);

"(2) a shortage in the domestic supply of any commodities that would be required under the terms of the agreements; or

"(3) the inability of the Commodity Credit Corporation to maintain adequate carryover stocks to meet any emergency, the requirements of the Agricultural Act of 1949, or the requirements of any other Act.

"(l) REPORT OF PRESIDENT.—Not later than January 15 of each year after a year in which an agreement entered into under this section is in effect, the President shall prepare and submit, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the commodities and funds made available under this section during the previous fiscal year. The report may be combined with other reports required to be submitted to Congress under the Agricultural Trade Development and Assistance Act of 1954 or the Agricultural Trade Act of 1978.".

(b) CONFORMING AMENDMENTS.—

(1) COMBINATION OF PROGRAMS.—Section 205 of the Agricultural Trade Act of 1978 (7 U.S.C. 5625) is amended—

(A) by striking "The" and inserting "(a) BLENDED CREDIT PROGRAM.—The"; and

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

"(b) FOOD FOR PROGRESS PROGRAM.—The programs authorized under this title may be used in conjunction with, and for the purposes specified under, section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o).".

(2) DIRECT CREDIT PROGRAM.—Section 201 of such Act (7 U.S.C. 5621) is amended by adding at the end the following new subsection:

"(f) REPAYMENT IN FOREIGN CURRENCIES.—The Secretary may waive the requirement in subsection (e) that payment of principal and interest be made in only United States dollars if the Secretary determines that the waiver would significantly aid in the development of the importing country as a foreign market for the commercial sale and export of agricultural commodities.".

SEC. 336. MISCELLANEOUS AMENDMENTS TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) DEBT FORGIVENESS.—The first sentence of section 411(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736e) is amended by inserting before the period at the end the following: "at least 10 days prior to providing the debt relief".

(b) COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.—The first sentence of section 413 of such Act (7 U.S.C. 1736g) is amended by striking "this Act" and inserting "title III".

SEC. 337. REPORTING REQUIREMENTS.

Notwithstanding any other provision of law, the Secretary of Agriculture shall not issue a final regulation to carry out section 214 of Public Law 98-180 (7 U.S.C. 509).

SEC. 338. SHARING OF UNITED STATES AGRICULTURAL EXPERTISE.

Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) by providing for necessary subsistence expenses in emerging democracies and necessary transportation expenses of United States' agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to assist in transferring their knowledge and expertise to entities in emerging democracies."; and

(2) in paragraph (9), by striking "$5,000,000" and inserting "$10,000,000".

SEC. 339. COMPETITIVE INSURANCE.

Title II of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 et seq.) is amended by adding at the end the following new section:

"SEC. 206. COMPETITIVE INSURANCE.

"(a) INTERMEDIATE FINANCING AND CREDIT GUARANTEES.—In the case of any intermediate-term financing under section 201 or intermediate-term credit guarantee under section 202, of an amount of at least $10,000,000, the Secretary shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction supported by the loan or guarantee.

"(b) REFERRAL TO THE SECRETARY OF COMMERCE.—In any case in which the Secretary finds that a fair and open competitive opportunity is not available to United States insurance companies in a country with respect to which the Secretary is considering a loan or guarantee, the Secretary shall forward to the Secretary of Commerce information regarding any country that denies United States insurance companies fair and competitive opportunities. The Secretary of Commerce shall determine whether to—

"(1) refer the trade barrier to the Trade Policy Committee created pursuant to section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872); or

"(2) bring the matter before the Trade Promotion Coordinating Council, created by section 3 of Executive Order No. 11846 of March 27, 1975 (19 U.S.C. 2111 note), for consideration of a recommendation to the President that access by the country to official export credit be restricted.".

TITLE IV—RESEARCH

SEC. 401. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) SHORT TITLE.—Subsection (a) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "(1)" before "In order"; and

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

"(2) SHORT TITLE.—This section may be cited as the 'Competitive, Special, and Facilities Research Grant Act'.".

(b) OTHER AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(10), by striking "and" after "1993,";

(2) in subsection (e)—

(A) by striking "RECORD KEEPING.—" and inserting "INTER-REGIONAL RESEARCH PROJECT NUMBER 4.—";

(B) in paragraphs (1) and (7), by striking "this section" and inserting "this subsection";

(C) in paragraphs (2), (3), (4), (5)(C), and (6)(A), by striking "IR-4 program" and inserting "IR-4 Program";

(D) in paragraph (5)(B)—

(i) by striking "registration," and inserting "registrations,"; and

(ii) by inserting "and" at the end of the subparagraph; and

(E) in paragraph (6)—

(i) by striking "within one year of the date of the enactment of this paragraph" and inserting "not later than November 28, 1991,"; and

(ii) by inserting a comma after "reregistrations" in the first sentence;

(3) in subsection (f), by striking "LIMITS ON OVERHEAD COSTS.—" and inserting "RECORD KEEPING.—";

(4) in subsection (g), by striking "AUTHORIZATION OF APPROPRIATIONS.—" and inserting "LIMITS ON OVERHEAD COSTS.—";

(5) in subsection (h)—

(A) by striking "RULES.—" and inserting "AUTHORIZATION OF APPROPRIATIONS.—";

(B) by striking "subsection (b) of this section" and inserting "subsections (b) and (e)"; and

(C) by striking "the provisions of";

(6) in subsection (i)—

(A) by striking "APPLICATION OF OTHER LAWS.—" and inserting "RULES.—";

(B) by striking "is authorized to" and inserting "may"; and

(C) by striking "the provisions of";

(7) in subsection (j) (as redesignated by section 1497(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3630)), by inserting "APPLICATION OF OTHER LAWS.—" after "(j)"; and

(8) by redesignating subsections (j), (k), and (l) (as inserted by section 1615(b) of such Act (104 Stat. 3731)) as subsections (k), (l), and (m), respectively.

SEC. 402. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(1) in section 1407(e) (7 U.S.C. 3122(e)) by striking the semicolon at the end of paragraph (7) and inserting a period;

(2) in section 1408 (7 U.S.C. 3123)—

(A) in subsection (e), by striking "government" and inserting "Government"; and

(B) in subsection (g)(1), by striking "Federally" and inserting "federally";

(3) in sections 1404(18) and 1408A(a) (7 U.S.C. 3103(18) and 3123a(a)), by inserting "and" after "Science";

(4) in section 1408A(c)(2)(H) (7 U.S.C. 3123a(c)(2)(H)), by striking "farmerworkers" and inserting "farmworkers";

(5) in section 1412 (7 U.S.C. 3127), by striking "and Advisory Board" in subsections (b) and (c) and inserting ", Advisory Board, and Technology Board";

(6) in section 1417(i) (7 U.S.C. 3152(c)), by striking the second sentence;

(7) in section 1419(b) (7 U.S.C. 3154(b)), by striking "subsection (c)" and inserting "subsection (d)";

(8) in section 1432 (7 U.S.C. 3194), by striking "SEC. 1432. (a)";

(9) in section 1446(d)(2) (7 U.S.C. 3222a(d)(2), by striking "the needs identified" and inserting "the purposes identified";

(10) in section 1446(e) (7 U.S.C. 3222a(e)), by striking "objective or" and inserting "objective of";

(11) in section 1458(a) (7 U.S.C. 3291(a)), by striking the period at the end of paragraph (3) and inserting a semicolon;

(12) in section 1463(a) (7 U.S.C. 3311), by striking "subtitle H and";

(13) in section 1473 (7 U.S.C. 3319), by striking "subsection (c)(2)" and inserting "subsection (c)(1)(B)"; and

(14) by repealing section 1473E (7 U.S.C. 3319e).

SEC. 403. RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION.

(a) PROGRAMS AUTHORIZED.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended—

(1) in subsection (f)—

(A) by striking the subsection heading and inserting "COMPETITIVE GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—"; and

(B) in paragraph (2), by striking "during the period beginning on the date of the enactment of this Act and ending on" and inserting "until"; and

(2) in the subsections following subsection (g)—

(A) by striking "(b) RURAL DEVELOPMENT EXTENSION" and inserting "(h) RURAL DEVELOPMENT EXTENSION";

(B) by striking "(h) RURAL HEALTH" and inserting "(i) RURAL HEALTH";

(C) by striking "(h) RESEARCH GRANTS.—" and inserting "(j) RESEARCH GRANTS.—"; and

(D) by arranging such subsections to appear in the proper order.

(b) DISTRIBUTION OF FUNDS.—Section 503(c)(1) of that Act (7 U.S.C. 2663(c)(1)) is amended—

(1) by striking "the provisions of section 502(e) of this title" and inserting "subsections (e) and (i) of section 502"; and

(2) by striking "objectives of section 502(e) of this title" and inserting "objectives of those subsections".

SEC. 404. NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—Subtitle C of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3744) is amended—

(1) in the subtitle heading, by striking "**Genetics**" and inserting "**Genetic**"; and

(2) in section 1633(a) (7 U.S.C. 5842(a)), by striking "Resources program" and inserting "Resources Program".

(b) TABLE OF CONTENTS.—The item relating to such subtitle in section 1(b) of such Act (104 Stat. 3365) is amended to read as follows:

"Subtitle C—National Genetic Resources Program".

SEC. 405. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION.

(a) PUNCTUATION CORRECTION.—Section 1658(d) of the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5902(d)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting "; and"; and

(2) by striking "; and" at the end of paragraph (3) and inserting a period.

(b) ESTABLISHMENT OF REGIONAL CENTERS.—Section 1663(a)(2) of such Act (7 U.S.C. 5907(a)(2)) is amended by striking "A Regional Center may not be established or operated" and inserting "No Regional Centers may be established".

SEC. 406. MISCELLANEOUS RESEARCH PROVISIONS.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3703) is amended—

(1) in section 1604(a) (Public Law 101-624; 104 Stat. 3706), by striking "(7 U.S.C. 3122(a))" and inserting "(7 U.S.C. 3122)".

(2) in section 1619(b)(8) (7 U.S.C. 5801(b)(8)), by striking "Marianas Islands" and inserting "Mariana Islands";

(3) in section 1628(c) (7 U.S.C. 5831(c)), by striking "education" and inserting "educational";

(4) in section 1629(c)(1) (7 U.S.C. 5832(c)(1)), by striking "insure" and inserting "ensure";

(5) in section 1634(l) (7 U.S.C. 5843(l)), by striking "committee established" and inserting "council established";

(6) in section 1638(b)(5) (7 U.S.C. 5852(b)(5)), by striking "National Sciences Foundation" and inserting "National Science Foundation";

(7) in section 1639(a) (7 U.S.C. 5853(a)), by striking "Act" and inserting "subtitle";

(8) in section 1652(b)(1) (7 U.S.C. 5883(b)(1)), by striking "pheremones" and inserting "pheromones";

(9) in section 1668(g)(2) (7 U.S.C. 5921(g)(2)), by striking "WITHOLDINGS" and inserting "WITHHOLDINGS";

(10) in section 1670(d) (7 U.S.C. 5923(d)), by striking "acquaculture" and inserting "aquaculture";

(11) in section 1672(c) (7 U.S.C. 5925(c)), by redesignating paragraphs (A) through (I) as paragraphs (1) through (9), respectively;

(12) in section 1673(f) (7 U.S.C. 5926(f)), by striking "programs or" and inserting "programs of";

(13) in section 1674 (7 U.S.C. 5927)—

(A) in subsection (d)(3)(A), by striking "Schedules" and inserting "Schedule"; and

(B) in subsection (f), by striking "Committee" both places it appears and inserting "Committees";

(14) in section 1675(c)(2) (7 U.S.C. 5928(c)(2)), by striking "PERIODS AND PREFERENCES.—Grants" and inserting the following: "OPERATING GRANTS.—The Secretary shall make grants to operate the centers established under paragraph (1). Such grants shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a). Such grants";

(15) in section 1677 (7 U.S.C. 5930)—

(A) by striking "Reservation" each place it appears in subsections (a), (b), and (e) and inserting "reservation";

(B) by striking "Reservations" both places it appears in subsection (a) and inserting "reservations"; and

(C) by striking "Tribal" in subsection (c) and inserting "tribal";

(16) in section 1678(d) (7 U.S.C. 5931(d)), by striking "Teaching, and Extension" and inserting "Extension, and Teaching"; and

(17) in section 1681(a)(2), (7 U.S.C. 5934(a)(2)), by striking "teacheal mite" and inserting "tracheal mite".

SEC. 407. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

Section 1624 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5814) is amended by striking "and 1623" and inserting "and 1622".

TITLE V—CREDIT

SEC. 501. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 304.—Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsection (d) as subsection (a) and moving such subsection to appear before subsection (b).

(b) AMENDMENT TO SECTION 312(a).—Section 312(a) of such Act (7 U.S.C. 1942(a)) is amended by striking "systems." and all that follows and inserting "systems (for purposes of this subtitle, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 310D, and (13) borrower training under section 359.".

(c) AMENDMENTS TO SECTION 331.—

(1) DIRECT AMENDMENTS.—Section 331(b)(4) of such Act (7 U.S.C. 1981(b)(4)) is amended—

(A) by striking "this title"; and

(B) by striking "1949 from" and inserting "1949, from".

(2) INDIRECT AMENDMENTS.—

(A) CLARIFICATION OF REPEAL.—Section 1805 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 3819) is amended by striking subsections (b) and (c) and inserting the following:

"(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.".

(B) CLARIFICATION OF TECHNICAL CORRECTIONS.—Section 2388(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4052) is amended—

(i) by inserting ", as amended by section 1805(b) of this Act," before "is amended";

(ii) in clause (i) of subparagraph (A), by striking "(h), and (i)" and inserting "and (h)";

(iii) by striking clause (iv) and redesignating clauses (v), (vi), and (vii) of subparagraph (A) as clauses (iv), (v), and (vi), respectively;

(iv) in clause (iv) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph), by striking "(i)" and inserting "(h)"; and

(v) in clause (vi) of subparagraph (A) (as so redesignated by clause (iii) of this subparagraph)—

(I) by striking "(j)" and inserting "(i)"; and

(II) by striking "(10)" and inserting "(9)".

(d) AMENDMENTS TO SECTION 331e.—

(1) IN GENERAL.—Section 331E of such Act (7 U.S.C. 1981e) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

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

"(b) CALCULATION OF YIELDS.—

"(1) IN GENERAL.—For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this title (except for loans under subtitle C), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

"(2) AFFECTED BY A DISASTER.—For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

"(3) APPLICATION OF SUBSECTION.—Paragraph (1) shall apply to all actions taken by the Secretary to carry out this title (except for loans under subtitle C) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.".

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) beginning in crop year 1992.

(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A).

(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act.

(e) AMENDMENTS TO SECTION 333(2)(A).—Section 333(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)(A)) is amended by redesignating clauses (1), (2), and (3), as clauses (i), (ii), and (iii), respectively.

(f) AMENDMENTS TO SECTION 335(e)(1).—

(1) INDIAN LANDS.—Section 335(e)(1) of such Act (7 U.S.C. 1985(e)(1)) is amended—

(A) in subparagraph (D)(i), by inserting "If" and inserting "Except as provided in subparagraph (F), if";

(B) in subparagraph (D)(i)(II), by striking "such" and inserting "an"; and

(C) by adding at the end the following new subparagraph:

"(F)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

"(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

"(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

"(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided for in subparagraph (D), as modified by this subparagraph.

"(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

"(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

"(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

"(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

"(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

"(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, the fact that—

"(aa) the Secretary may foreclose on the property;

"(bb) the property will be offered for sale;

"(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher, but that the property may be purchased by another party; and

"(dd) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

"(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

"(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that is in the best interests of the Federal government.

"(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(I) the sale;

"(II) the fair market value of the property; and

"(III) the requirements of this subparagraph.

"(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

"(aa) the fair market value of the property; or

"(bb) the outstanding principal and interest of the loan.

"(II) If hazardous wastes are located on the property and the Secretary is required to take remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal government.".

(2) BORROWER-OWNER.—Section 335(e)(1) of such Act (as amended by paragraph (1)) is further amended—

(A) in subparagraph (A)(i), by striking "the borrower" and all that follows through "the 'borrower-owner')" and inserting "borrower-owner (as defined in subparagraph (G)"; and

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

"(G) As used in this paragraph, the term 'borrower-owner' means—

"(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this title; or

"(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(g) AMENDMENTS TO SECTION 352.—Section 352 of such Act (7 U.S.C. 2000) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'borrower-owner' means—

"(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1); or

"(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.".

(2) by striking "borrower" each place it appears and inserting "borrower-owner".

(h) AMENDMENTS TO SECTION 353.—Section 353 of such Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)(6)(A)(ii), by striking "the date of enactment of this paragraph" and inserting "November 28, 1990"; and

(2) in subsection (m), by striking "335(e)(1)(A)" and inserting "335(e)(1)".

(i) AMENDMENTS TO SECTION 363.—Section 363 of such Act (7 U.S.C. 2006e) is amended—

(1) by striking "3801(a)(16))" and inserting "3801(a)(16)))"; and

(2) by striking "prior to the date of enactment of this section" and inserting "before November 28, 1990".

SEC. 502. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENTS TO SECTION 1.11(a).—Section 1.11(a) of the Farm Credit Act of 1971 (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes" and inserting the following:

"(a) AGRICULTURAL OR AQUATIC PURPOSES";

(2) by striking "(1) In general" and inserting the following:

"(1) IN GENERAL"; and

(3) by striking "(2) Limitation on loans for basic processing and marketing operations" and inserting the following:

"(2) LIMITATION ON LOANS FOR BASIC PROCESSING AND MARKETING OPERATIONS".

(b) AMENDMENT TO SECTION 2.0(b)(8).—Section 2.0(b)(8) of such Act (12 U.S.C. 2071(b)(8)) is amended by striking "charter to" and inserting "charter, to".

(c) AMENDMENT TO SECTION 2.1.—Section 2.1 of such Act (12 U.S.C. 2072) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(d) AMENDMENT TO SECTION 2.11.—Section 2.11 of such Act (12 U.S.C. 2092) is amended by striking "or stockholder" and inserting "stockholder, or agent".

(e) AMENDMENT TO SECTION 3.7(b).—

(1) IN GENERAL.—Section 3.7(b) of such Act (12 U.S.C. 2128(b)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a domestic" and inserting "(A) a domestic";

(C) by inserting "or products" after "commodities";

(D) by striking "(2) a domestic" and inserting "(B) a domestic"

(E) by striking "clause (1) of this subsection" and inserting "subparagraph (A)"; and

(F) by adding at the end the following new paragraphs:

"(2) A bank for cooperatives is authorized to make or participate in loans and commitments, and to extend other technical and financial assistance, for the export of agricultural commodities and products from the United States, including (where applicable) the cost of freight, if in each case—

"(A) the loan involved is unconditionally guaranteed or insured by a department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States; and

"(B) the guarantee or insurance covers at least 95 percent of the amount loaned for the purchase of the commodities or products.

"(3) A bank for cooperatives is authorized to provide such international banking services as are customarily provided within the banking industry, to the extent the services are convenient or useful to the bank in carrying out the activities specified in paragraphs (1) and (2). The services include—

"(A) providing a full line of correspondent banking services, such as advising or confirming letters of credit covering any commodity or product without requiring financing, collections, wire transfers, or payment orders; and

"(B) issuing standby letters of credit to satisfy requirements for bid or performance bonds related to the export of agricultural commodities and products from the United States.".

(2) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of such Act (12 U.S.C. 2129(b)(1)(D)) is amended by striking "section 3.7(f)" and inserting "subsection (b) or (f) of section 3.7".

(f) AMENDMENT TO SECTION 3.7(f).—The first sentence of section 3.7(f) (12 U.S.C. 2128(f)) is amended to read as follows: "The banks for cooperatives may make and participate in loans and commitments and extend other technical and financial assistance to—

"(1) cooperatives formed specifically for the purpose of establishing or operating water or waste disposal facilities in rural areas; and

"(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate water or waste disposal facilities in rural areas.".

(g) AMENDMENTS TO SECTION 3.8.—Section 3.8 of such Act (12 U.S.C. 2129) is amended—

(1) in subsection (a)(4), by striking "(4) A" and inserting "(4) a"; and

(2) in subsection (b)(1)—

(A) by moving subparagraph (D) 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C); and

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

"(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.".

(h) AMENDMENT TO SECTION 4.9(d)(2).—Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

"(2) NON-VOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

"(B) MEETINGS.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

"(C) TERMINATION OF ASSISTANCE BOARD.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.".

(i) AMENDMENT TO SECTION 4.21.—Section 4.21 of such Act (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF BANK DIRECTORS.

"The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not adversely affect the safety and soundness of the bank.".

(j) AMENDMENT TO SECTION 4.28.—Section 4.28 of such Act (12 U.S.C. 2214) is amended by striking "2.17" and inserting "2.16".

(k) AMENDMENT TO SECTION 5.17(a)(8)(B)(ii).—Section 5.17(a)(8)(B)(ii) of such Act (12 U.S.C. 2252(a)(8)(B)(ii)) is amended by striking the last period.

(l) AMENDMENT TO SECTION 5.17(b).—Subsection (b) of section 5.17 of such Act (12 U.S.C. 2252(b)) is amended to read as follows:

"(b) The Farm Credit Administration shall not have authority, either directly or indirectly—

"(1) to approve bylaws, or any amendments, modifications, or changes to bylaws, of System institutions; or

"(2) to approve the salary scale, compensation, or benefit or retirement plans for employees of System institutions.".

(m) AMENDMENT TO SECTION 5.19(a).—The fourth sentence of section 5.19(a) of such Act (12 U.S.C. 2254(a)) is amended by inserting after "shall include" the following: "an analysis of the compensation paid directors,".

(n) AMENDMENT TO SECTION 5.35(3).—Section 5.35(3) of such Act (12 U.S.C. 2271(3)) is amended by striking "D" and inserting "E".

(o) AMENDMENT TO SECTION 5.58(4)(B) of such Act (12 U.S.C. 2277a-7(4)(B)) is amended by inserting after "and the Corporation," the following: "in any capacity,".

(p) AMENDMENTS TO SECTION 5.65.—Section 5.65(d)(1) of such Act (12 U.S.C. 2277a-14(d)(1)) is amended by striking "insured".

(q) AMENDMENTS TO SECTION 6.2(d).—Section 6.2(d) of such Act (12 U.S.C. 2278a-2(d)) is amended by striking "subchapter 1" each place such term appears and inserting "subchapter I".

(r) AMENDMENTS TO SECTION 6.23.—Section 6.23 of such Act (12 U.S.C. 2278b-3) is amended by inserting before the period at the end the following: ", except in the event of a restructuring or liquidation to a successor System institution".

(s) AMENDMENT TO SECTION 7.11(a)(2).—Section 7.11(a)(2) of such Act (12 U.S.C. 2279e(a)(2)) is amended by striking "30 days" and inserting "60 days".

(t) AMENDMENT TO SECTION 8.3(c).—Section 8.3(c) of such Act (12 U.S.C. 2279aa-3(c)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) To establish, acquire, and maintain affiliates (as such term is defined in section 8.11(g)) under applicable State laws to carry out any activities that otherwise would be performed directly by the Corporation under this title.".

(u) AMENDMENT TO SECTION 8.6.—Section 8.6 of such Act (12 U.S.C. 2279aa-6) is amended by adding at the end the following new subsection:

"(g) PURCHASE OF GUARANTEED SECURITIES.—

"(1) PURCHASE AUTHORITY.—The Corporation (and affiliates) may purchase, hold, and sell any securities guaranteed under this section by the Corporation that represent interests in, or obligations backed by, pools of qualified loans. Securities issued under this section shall have maturities and bear rates of interest as determined by the Corporation.

"(2) ISSUANCE OF DEBT OBLIGATIONS.—The Corporation (and affiliates) may issue debt obligations solely for the purpose of obtaining amounts for the purchase of any securities under paragraph (1), for the purchase of qualified loans (as defined in section 8.0(9)(B)), and for maintaining reasonable amounts for business operations (including adequate liquidity) relating to activities under this subsection.

"(3) TERMS AND LIMITATIONS.—

"(A) TERMS.—The obligations issued under this subsection shall have maturities and bear rates of interest as determined by the Corporation, and may be redeemable at the option of the Corporation before maturity in the manner stipulated in the obligations.

"(B) REQUIREMENT.—Each obligation shall clearly indicate that the obligation is not an obligation of, and is not guaranteed as to principal and interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(C) AUTHORITY.—The Corporation may not issue obligations pursuant to paragraph (2) under this subsection while any obligation issued by the Corporation under section 8.13(a) remains outstanding.".

TITLE VI—CROP INSURANCE AND DISASTER ASSISTANCE

SEC. 601. FEDERAL CROP INSURANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(1) in section 506(d) (7 U.S.C. 1506(d))—

(A) by striking "section 508(c)" and inserting "section 508(f)"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in section 506(m) (7 U.S.C. 1506(m))—

(A) by striking "wilfully" and inserting "willfully"; and

(B) by striking "to" after "exceed";

(3) in section 507(c)(2) (7 U.S.C. 1507(c)(2)), by inserting a comma after "private insurance companies";

(4) in section 508(a) (7 U.S.C. 1508(a)), by striking "(1)";

(5) in section 508 (7 U.S.C. 1508), by redesignating subsections (l), (m), and (n) as subsections (k), (l), and (m), respectively; and

(6) in section 518 (7 U.S.C. 1518) by striking "subsection (a) or (i)" and inserting "subsection (a) or (k)".

SEC. 602. DISASTER RELIEF.

(a) 1989 ACT.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by inserting "(A)" after the paragraph heading.

(b) 1988 ACT.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) (as amended by section 1541 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in the subsection heading, by striking "SUNFLOWER SEED" and inserting "SUNFLOWERSEED"; and

(2) in paragraph (2)(A)—

(A) by inserting a comma after "(7 U.S.C. 612c)" in clause (i); and

(B) by striking "such Act" in clause (i) and inserting "such section".

(c) CLARIFICATION OF AMENDMENT.—Section 2232(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-510; 104 Stat. 3959) is amended—

(1) by striking "is amended to read:" and inserting "is amended by striking the material before the clauses and inserting the following:";

(2) by inserting open double quotes before "(A)"; and

(3) by moving the left margin of subparagraph (A) 2 ems to the right.

TITLE VII—RURAL DEVELOPMENT

SEC. 701. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) AMENDMENTS TO SECTION 306(a).—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in paragraph (11)(B)(ii)—

(A) in subclause (I), by inserting "and" after the semicolon; and

(B) in subclause (II), by striking "; and" and inserting a period; and

(2) by striking paragraph (21).

(b) AMENDMENTS TO SECTION 306C(a)(2).—Subparagraphs (A) and (B) of section 306C(a)(2) of such Act (7 U.S.C. 1926c(a)(2)(A) and (B)) are each amended by moving the left margin of such subparagraphs 2 ems to the right.

(c) AMENDMENTS TO SECTION 310B.—Section 310B of such Act (7 U.S.C. 1932) is amended—

(1) in subsection (i)(2)(B)(iv), by striking "(ii) of this subsection" and inserting "(iii) of this subparagraph";

(2) in subsection (i)(5)(A), by striking "365(b)(3)," and inserting "365(b)(3)),";

(3) by transferring to the end of such section the provision added by section 2386 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4051);

(4) by redesignating the provision so transferred as subsection (j); and

(5) in subsection (j) (as so redesignated), by striking "The Secretary" and inserting "GRANTS TO BROADCASTING SYSTEMS.—The Secretary.

(d) AMENDMENTS TO SECTION 364(e).—Section 364(e) of such Act (7 U.S.C. 2006f(e)) is amended—

(1) in paragraph (2), by striking "the date of enactment of this section" and inserting "November 28, 1990"; and

(2) in paragraph (3), by striking "the date of enactment of this section" and inserting "November 28, 1990,".

(e) AMENDMENTS TO SECTION 365(b).—Section 365(b) of such Act (7 U.S.C. 2008(b)) is amended—

(1) in paragraph (4)(A), by striking "(3)(C)" and inserting "(3)(A)(iii)"; and

(2) in paragraph (5), by striking "(3)(B)" and inserting "(3)(A)(ii)".

(f) AMENDMENT TO SECTION 366(h).—Section 366(h) of such Act (7 U.S.C. 2008a(h)) is amended by striking "of such officer" and inserting "of such officer's".

(g) AMENDMENT TO SECTION 367(b)(1).—Section 367(b)(1) of such Act (7 U.S.C. 2008b(b)(1)) is amended by striking "365(b)(6)" and inserting "366(b)(6)".

(h) MISCELLANEOUS AMENDMENTS.—

(1) IDENTICAL AMENDMENTS.—Each of the following provisions of such Act is amended by striking "this Act" each place such term appears and inserting "this title":

(A) Section 306(a)(12)(D) (7 U.S.C. 1926(a)(12)(D)).

(B) Section 306(a)(20) (7 U.S.C. 1926(a)(20)).

(C) Section 310B(d)(5) (7 U.S.C. 1932(d)(5)).

(D) Section 310B(d)(7) (7 U.S.C. 1932(d)(7)).

(E) Section 331(b)(3) (7 U.S.C. 1981(b)(3)).

(F) Section 346(b)(3)(C) (7 U.S.C. 1994(b)(3)(C)).

(2) OTHER MISCELLANEOUS AMENDMENT.—Section 352(b)(3) of such Act (7 U.S.C. 2000(b)(3)) is amended by striking "be".

SEC. 702. AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) AMENDMENT TO SECTION 2302(b)(1).—Section 2302(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2006f note) is amended by striking "the date of enactment of this section" and inserting "November 28, 1990".

(b) AMENDMENTS TO SECTION 2311.—Section 2311 of such Act (7 U.S.C. 2007a) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "4(b)" and inserting "4(e)";

(B) by striking "the section 4(c)" and inserting "section 4(l)"; and

(C) by striking "450b(c)))" and inserting "450b(l)))"; and

(2) in paragraph (4), by striking "this Act" and inserting "this chapter".

(c) AMENDMENTS TO SECTION 2313.—Section 2313 of such Act (7 U.S.C. 2007c) is amended—

(1) in subsection (a)(2), by striking "Fund established under paragraph (1)" and inserting "Rural Business Investment Fund";

(2) in subsection (b)(1), by striking "fund established by subsection (a)" and inserting "Rural Business Investment Fund"; and

(3) in subsection (c)(6), by inserting "Business Investment" before "Fund".

(d) AMENDMENT TO SECTION 2314(a)(1)(A)(i).—Section 2314(a)(1)(A)(i) of such Act (7 U.S.C. 2007d(a)(1)(A)(i)) is amended by striking "from the Fund under this chapter" and inserting "under this chapter from the Rural Business Investment Fund".

(e) AMENDMENT TO SECTION 2315(d)(2).—Section 2315(d)(2) of such Act (7 U.S.C. 2007e(d)(2)) is amended by striking "engage in conduct, in".

(f) AMENDMENTS TO SECTION 2322.—Section 2322 of such Act (7 U.S.C. 1926-1) is amended—

(1) in subsection (d)(1)(B)—

(A) by striking "section 306(a)(9) and 306(a)(10)" and inserting "paragraphs (9) and (10) of section 306(a)"; and

(B) by striking "sections 306(a)(19)(A) and (B)" and inserting "subparagraphs (A) and (B) of section 306(a)(19)"; and

(2) in subsection (i)(1), by striking "and (3)".

(g) AMENDMENT TO SECTION 2332.—Section 2332 of such Act (7 U.S.C. 950aaa–1) is amended by striking "Federal government" and inserting "Federal Government".

(h) AMENDMENTS TO SECTION 2388(h).—

(1) AMENDMENTS.—Section 2388(h) of such Act (104 Stat. 4053) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) SPECIAL RULE.—The Consolidated Farm and Rural Development Act shall be applied and administered as if the amendment made by 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 had never been enacted.

(i) REPEAL OF SECTION 2388(i).—Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) is hereby repealed and the Consolidated Farm and Rural Development Act shall be applied and administered as if the amendments made by such subsection had never been enacted.

SEC. 703. AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.

(a) AMENDMENT TO SECTION 11A.—Section 11A(e) of the Rural Electrification Act of 1936 (7 U.S.C. 911a(e)) is amended by striking "1 percent" and inserting "2 percent".

(b) REPEAL OF SECTION 17.—Section 17 of such Act (7 U.S.C. 917) is repealed.

(c) AMENDMENTS TO SECTION 501.—Section 501 of such Act (7 U.S.C. 950aa) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon;

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

(d) AMENDMENT TO SECTION 502.—Section 502(a)(2) of such Act (7 U.S.C. 950aa–1(a)(2)) is amended by striking "as defined in this Act".

SEC. 704. RURAL HEALTH LEADERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 502(i)(1) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by adding at the end the following new subparagraph:

"(C) RURAL HEALTH LEADERSHIP DEVELOPMENT.—The Secretary may make grants to consortia of academic medical centers and land grant colleges and universities for the establishment of rural health leadership development education programs that shall assist rural communities in developing health care services and facilities that will provide the maximum benefit for the resources invested and assist community leaders and public officials in understanding their roles and responsibilities relative to rural health services and facilities, including—

"(i) community decisions regarding funding for and retention of rural hospitals;

"(ii) rural physician and allied health professionals recruitment and retention;

"(iii) the aging rural population and senior services required to care for the population;

"(iv) the establishment and maintenance of rural emergency medical services systems; and

"(v) the application of computer-assisted capital budgeting decision aids for rural health services and facilities.".

(b) CONFORMING AMENDMENT.—The first sentence of section 502(i)(4) of the Rural Development Act of 1972 (7 U.S.C. 2662) (as redesignated by section 403(a)(2)(B) of this Act) is amended by inserting after "to States" the following "or consortia (as provided in paragraph (1)(C))".

TITLE VIII—AGRICULTURAL PROMOTION

SEC. 801. SHORT TITLE.

Section 1901 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 note; 104 Stat. 3838) is amended by striking "This Act" and inserting "This title".

SEC. 802. PECANS.

Subtitle A of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6001 et seq., 104 Stat. 3838) is amended—

(1) in section 1907(22) (7 U.S.C. 6002(22)), by striking "inshell" and inserting "in-shell";

(2) in section 1910(b)(8)(G) (7 U.S.C. 6005(b)(8)(G))—

(A) by striking "paragraph 3(A), (B), and (C)," and inserting "subparagraphs (A), (B), and (C) of paragraph (3),"; and

(B) by striking "paragraph (3)(D) and (E)" and inserting "subparagraphs (D) and (E) of paragraph (3)"; and

(3) in section 1915(b)(2) (7 U.S.C. 6010(b)(2)), by striking "section" after "1913 or".

SEC. 803. MUSHROOMS.

Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6101 et seq.; 104 Stat. 3854) is amended—

(1) in section 1925(h) (7 U.S.C. 6104(h)), by striking "government" and inserting "governmental";

(2) in section 1928(d)(1)(A) (7 U.S.C. 6107(d)(1)(A)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1929(b)(2) (7 U.S.C. 6108(b)(2)), by striking "section" after "1927 or".

SEC. 804. POTATOES.

Section 310(a)(2) of the Potato Research and Promotion Act (7 U.S.C. 2619(a)(2)) is amended by striking "(2) when" and inserting "(2) When".

SEC. 805. LIMES.

Subtitle D of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6201 et seq.; 104 Stat. 3870) is amended—

(1) in section 1955(e)(1)(B) (7 U.S.C. 6204(e)(1)(B)), by striking "government employees" and inserting "Government employees";

(2) in section 1958(d)(1) (7 U.S.C. 6207(d)(1)), by striking "United States district court" and inserting "United States District Court"; and

(3) in section 1959(b)(2) (7 U.S.C. 6208(b)(2)), by striking "section" after "1957 or".

SEC. 806. SOYBEANS.

Subtitle E of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6301 et seq.; 104 Stat. 3881) is amended—

(1) in section 1969 (7 U.S.C. 6304)—

(A) in subsection (g)(2)(A)(ii), by striking "Agricultural" and inserting "Agricultural";

(B) in subsection (l)(2)(F)(vii)(V), by striking "that requests" and inserting "that request"; and

(C) in subsection (q)(4)—

(i) by inserting a comma after "and"; and

(ii) by striking the semicolon after "Board";

(2) in section 1970(b)(3) (7 U.S.C. 6305(b)(3)), by striking "this Act" and inserting "this subtitle"; and

(3) in section 1974 (7 U.S.C. 6309)—

(A) in subsection (b)(3), by striking "section 1969(k)(4)" and inserting "section 1969(l)(4)"; and

(B) by redesignating the second subsection (b) as subsection (c).

SEC. 807. HONEY.

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) is amended—

(1) in section 9(h) (7 U.S.C. 4608(h)), by inserting "to" before "an importer"; and

(2) in section 11A(b)(2) (7 U.S.C. 4610a(b)(2)), by striking "section" after "10 or".

SEC. 808. COTTON.

(a) COTTON PROMOTION ACT.—The Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.) is amended—

(1) in section 7(e)(4) (7 U.S.C. 2106(e)(4)), by striking "title" and inserting "Act";

(2) in section 8(b)(2) (7 U.S.C. 2107(b)(2)), by striking "section 17C(2)" and inserting "section 17(c)(2)";

(3) in section 10(b) (7 U.S.C. 2109(b)), by striking "section 8(b) or 8(c)" and inserting "subsection (b) or (c) of section 8"; and

(4) in section 11(a) (7 U.S.C. 2110(a))—

(A) by inserting "of this Act" after "section"; and

(B) by striking "of this Act," after "subsection (b),".

(b) REPORTS.—Section 1998 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2101 note; 104 Stat. 3913) is amended by striking "title" each place it appears in subsections (a) and (b) and inserting "subtitle".

SEC. 809. FLUID MILK.

Section 1999L(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6411(b); 104 Stat. 3922) is amended by striking "this subsection" and inserting "this section".

SEC. 810. WOOL.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by inserting after the third sentence the following new sentence: "In any agreement entered into under this section, the Secretary shall prohibit the use of any funds made available through pro rata deductions from payments under section 704 of this title in any manner for the purpose of influencing legislation or government action or policy, except for the development or recommendation to the Secretary of amendments to the research and promotion program.".

TITLE IX—FOOD AND NUTRITION PROGRAMS

Subtitle A—Food Stamp Program

SEC. 901. CERTIFICATION PERIOD.

The proviso of section 3(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)(2)) is amended by inserting after "period may be up to" the following: "(A) twenty-four months for any household that has no other source of nonexcluded income other than supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.) or retirement benefits under title II of such Act (42 U.S.C. 401 et seq.), or (B)".

SEC. 902. APPLICATION OF FOOD STAMP ACT OF 1977 TO DISABLED PERSONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by inserting after "title I, II, X, XIV, or XVI of the Social Security Act" both places it appears in subsections (g)(7) and (i) the following: ", or are individuals described in paragraphs (2) through (7) of subsection (r),".

SEC. 903. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

The third sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking "appropriate for categorical treatment" and inserting "based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month,".

SEC. 904. EXCLUSIONS FROM INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "used for" and all that follows through "involved)" and inserting "awarded to a household member enrolled"; and

(B) in subparagraph (B)—

(i) by inserting after "amount" the following: "used for or"; and

(ii) by striking "or program for" and inserting "program, or other grantor, for tuition and mandatory fees (including the rental or pur-

chase of any equipment, materials, and supplies related to the pursuit of the course of study involved),";

(2) by striking "and" at the end of paragraph (14); and

(3) by inserting before the period at the end the following: ", and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))".

SEC. 905. RESOURCES THAT CANNOT BE SOLD FOR A SIGNIFICANT RETURN.

Section 5(g)(5) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(5)) is amended by adding at the end the following new sentences: "A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to determine the value of a resource to be excluded under this paragraph if the State agency determines that the valuation is unnecessary and the basis for the determination is recorded.".

SEC. 906. RESOURCE EXEMPTION FOR HOUSEHOLDS EXEMPT UNDER AFDC OR SSI.

Subsection (j) of section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) is amended to read as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).".

SEC. 907. TECHNICAL AMENDMENT ON TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)(F)) is amended by inserting before the semicolon the following: ", if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases".

SEC. 908. NOTICES TO MONTHLY REPORTING HOUSEHOLDS.

Section 6(c)(2)(D) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(2)(D)) is amended—

(1) by striking "accordingly) and" and inserting "accordingly),"; and

(2) by inserting after "section 11(e)(10) of this Act," the following: "and, if the household fails to file by an extended deadline, be afforded notice consistent with section 11(e)(10),".

SEC. 909. PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Subparagraph (L) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(L)) is amended to read as follows:

"(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes and improvements in household members' educational levels.

"(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

"(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

"(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.".

(b) LIMITATION.—Section 6(d)(4)(K)(i) of such Act is amended—

(1) by striking "50 percent through September 30, 1989" and inserting "10 percent"; and

(2) by adding at the end the following new sentence: "The Secretary shall not require the plan of a State agency to provide for the participation of a number of recipients greater than 10 percent of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).".

SEC. 910. SUSPENSION OF CERTAIN REQUIREMENTS, AND STUDY, OF FOOD STAMP PROGRAM ON INDIAN RESERVATIONS.

(a) SUSPENSION OF REQUIREMENTS.—

(1) STAGGERED ISSUANCE OF COUPONS.—No State agency shall be required to implement section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)), regarding the staggering of issuance of food stamp coupons, until April 1, 1993. The Secretary of Agriculture shall issue final regulations requiring the staggered issuance of coupons no later than December 1, 1992.

(2) EXEMPTION FROM MONTHLY REPORTING SYSTEMS.—No State agency shall be required to exempt households residing on Indian reservations from food stamp program monthly reporting systems until April 1, 1993. The Secretary shall issue final regulations requiring the exemption of households residing on Indian reservations from food stamp program monthly reporting systems no later than December 1, 1992.

(b) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall report to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the difficulties that residents of Indian reservations experience in obtaining food stamp benefits, in using food stamp benefits, and in purchasing food economically with food stamps.

(2) COMPONENTS.—In carrying out paragraph (1), the Comptroller General shall—

(A) examine whether monthly reporting requirements are a burden to food stamp households residing on Indian reservations;

(B) examine whether prices at food stores serving reservations are increased during the parts of months when food stamps are issued or are decreased during times of the month when most households have exhausted their food stamp allotments;

(C) examine whether eligible households residing on reservations would prefer that the households' food stamp issuances be—

(i) staggered throughout the month;

(ii) concentrated on the same day of each month; or

(iii) staggered during approximately the first 2 weeks of the month; and

(D) analyze problems associated with transportation difficulties in terms of food stamp program participation and any actions that could be taken at the Federal, State, or local level to remedy the problems.

(3) CONSULTATION.—In completing the report and recommendations, the Comptroller General shall consult with Indian tribes, State agencies, and other appropriate parties.

SEC. 911. VALUE OF ALLOTMENT.

Section 8(b) of the Food Stamp Act of 1977 (7 U.S.C. 2017(b)) is amended—

(1) by striking "the allotment provided any eligible household" and inserting "benefits that may be provided under this Act, whether through coupons, access devices, or otherwise"; and

(2) by striking "an allotment" and inserting "benefits".

SEC. 912. PRORATING WITHIN A CERTIFICATION PERIOD.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month."; and

(2) in paragraph (2)(B), by striking "previous participation in such program" and inserting "the expiration of a certification period or the termination of a certified household when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10)".

SEC. 913. CODIFICATION OF LIMITATION ON RECOVERY OF STALE CLAIMS.

(a) IN GENERAL.—Section 13(b) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Action to recover claims shall be taken with reasonable promptness.

"(B) The State agency shall take action on those claims for which 12 months or less have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case of overissuance and may choose to take action on those claims for which more than 12 months have elapsed.

"(C) No action shall be taken on claims for which more than 6 years have elapsed between the month an overissuance occurred and the month the State agency discovered a specific case involving an overissuance.".

(b) APPLICATION.—The amendment made by this section shall not apply to the two pilot projects conducted, in conjunction with the Internal Revenue Service, to intercept Federal tax refunds to satisfy claims arising under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), initiated before the date of enactment of this Act.

SEC. 914. RECOVERY OF CLAIMS CAUSED BY NONFRAUDULENT HOUSEHOLD ERRORS.

The first sentence of section 13(b)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(2)(A)) is amended by inserting before the period the following: ", except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household's monthly allotment".

SEC. 915. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

(a) IN GENERAL.—Section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) is amended by striking "The" and inserting "Not later than October 1, 1992, the".

(b) REQUESTS TO PARTICIPATE.—The Secretary of Agriculture shall solicit requests to partici-

pate in the demonstration projects required by section 17(h) of the Food Stamp Act of 1977 (7 U.S.C. 2026(h)) by April 1, 1992.

SEC. 916. DEFINITION OF RETAIL FOOD STORE.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by striking "and (b)" and inserting ", (b), and (c)".

Subtitle B—Commodity Distribution and Children's Programs

SEC. 921. EXTENSION OF ELDERLY COMMODITY PROCESSING DEMONSTRATIONS.

Section 1114(a)(2)(D) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(D)) is amended by striking "1992 and 1993" and inserting "1992, 1993, and 1994".

SEC. 922. RULES RELATING TO FOOD STAMP RETAILERS AND WHOLESALERS.

(a) SPECIAL RULES.—The Secretary of Agriculture shall, in issuing regulations regarding disqualification from participation or the participation of a retail store, wholesale store, or other vendor in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or the special supplemental food program for women, infants and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), minimize (to the extent consistent with section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2016)) the imposition of disqualification penalties for the store or vendor where the violation occurred in circumstances in which a program violation is not caused by a manager, operator, or owner of the store or vendor (where the violation occurred) but rather is caused by a nonmanagement employee (such as a check-out clerk, a person without final authority to hire and fire store employees, a janitor, or a bagger) working in the store or location where the violation occurred.

(b) CONTRARY REGULATIONS OF NO EFFECT.—Any regulations issued in violation of this section shall be of no force and effect.

SEC. 923. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by inserting after "25 percent" the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less, and".

SEC. 924. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) IN GENERAL.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public bodies, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "and not less than $350,000 in fiscal year 1991, $550,000 in fiscal year 1992, $650,000 in fiscal year 1993, and $800,000 in fiscal year 1994,"; and

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

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public bodies, and shall advise each State of the procedures for applying to participate in the project.".

(b) OTHER MEANS.—The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

SEC. 925. REDUCTION OF FEDERAL PAPERWORK FOR DISTRIBUTION OF COMMODITIES.

Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(1) in subsections (b)(3) and (b)(6), by striking "to needy" each place it appears and inserting "to hungry or needy";

(2) in subsection (c) by striking "to needy persons" and inserting in lieu thereof "to hungry or needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy or hungry persons"; and

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

"(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—

"(1) SOUP KITCHENS.—In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

"(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy or the hungry. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

"(3) OTHER INSTITUTIONS.—If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy or hungry persons.".

SEC. 926. ADVANCE FUNDING FOR COMMODITY PURCHASES.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended by inserting after section 3A the following new section:

"SEC. 3B. ADVANCE FUNDING FOR COMMODITY PURCHASES.

"(a) IN GENERAL.—The Secretary may use the funds, services, and facilities of the Commodity Credit Corporation to purchase commodities for the domestic food assistance programs administered by the Secretary. Notwithstanding any other provision of law, the purchases may be made in advance of the fiscal year in which the purchases will be delivered for use in the programs. If no appropriation exists for the fiscal year of delivery, the use of funds under this section shall not exceed the appropriation amounts for the fiscal year prior to the fiscal year of delivery.

"(b) REIMBURSEMENT.—Subject to available appropriations, the Secretary shall reimburse the Commodity Credit Corporation for the amount of funds advanced under this section using funds from the appropriate domestic food assistance program account.

"(c) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or a designee of the Secretary shall have the authority to—

"(A) determine the amount of, settle, and adjust any claim arising under a domestic food assistance program administered by the Secretary; and

"(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the particular domestic food assistance program.

"(2) LITIGATION.—Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.".

Subtitle C—Farmers' Market Nutrition Program

SEC. 931. PURPOSE.

The purpose of this subtitle is to authorize grants to be made to State programs designed to—

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruit and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at the markets.

SEC. 932. FARMERS' MARKET NUTRITION PROGRAM.

Subsection (m) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended to read as follows:

"(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) ensure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program which may be satisfied from State contributions that are made for similar programs.

"(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each State plan, and need not award grants to each State that submits a State plan.

"(5) Each State that receives a grant under this subsection shall ensure that the program for

which the grant is received complies with the following requirements:

"(A) Persons who are eligible to receive Federal benefits under the program shall only be persons who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the program; and

"(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program not more than 18 percent of the total amount of program funds in its first fiscal year of operation, not more than 17 percent of the total amount of program funds in its second fiscal year of operation, and not more than 16 percent of the total amount of program funds in each subsequent fiscal year of operation.

"(ii)(I) Each State that received Federal funding in any of the fiscal years 1989 through 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) may use for administration of the program not more than 18 percent of the total amount of program funds for fiscal years 1992 and 1993, not more than 17 percent of the total amount of program funds for fiscal year 1994, and not more than 16 percent of the total amount of program funds for fiscal year 1995.

"(II) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional 2 percent of the total program funds for administration of the program for any fiscal year.

"(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

"(6)(A) Each State that received Federal funding in fiscal year 1991 under the demonstration program authorized by this subsection (as it existed on September 30, 1991) shall continue to receive benefits under this subsection, provided that the State continues to comply with the requirements established by this subsection, as determined by the Secretary.

"(B)(i) If sufficient funds are appropriated and a State provides the requisite match amount under paragraph (3), the State shall receive no less Federal funds than it spent in the prior fiscal year.

"(ii) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $50,000 or the amount that the State spent for the prior fiscal year if that amount is less than $50,000.

"(C) In providing funds to serve additional recipients in States that participated in the Federal program in the previous fiscal year, the Secretary shall take into consideration—

"(i) the availability of Federal funds not spent during the prior program year in the State making a request to serve additional recipients;

"(ii) documentation that justifies the need for an increase in participation; and

"(iii) demonstrated ability to satisfactorily operate the existing program.

"(D)(i) A State that has not received Federal funding under this subsection for the fiscal year prior to the fiscal year for which it is submitting a State plan, and that desires to receive a grant under this subsection, shall submit a State plan to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(ii) Each State plan submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

"(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

"(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with this or similar programs;

"(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

"(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

"(iv) give preference to State plans that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of recipients in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

"(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

"(G)(i) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

"(ii) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of paragraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

"(iii) If, after the requirements of clauses (i) and (ii) have been met, funds remain unallocated, the unallocated funds shall be reallocated in the following fiscal year under the procedure established in paragraph (10)(B)(ii).

"(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

"(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(C) If the same State agency administers both the special supplemental food program for women, infants, and children established under subsection (c) and the farmers' market nutrition program established under this subsection and similar administrative activities for both programs are combined, the Secretary shall not require that the administrative expenses of these activities be treated separately for purposes of cost accounting. Administrative expenses accrued under this subsection shall be reimbursed under this subsection.

"(8) The Secretary shall collect from each State that receives a grant under this subsection information relating to—

"(A) the number of recipients served by both Federal and State benefits under the program for which the grant is received;

"(B) the rate of redemption of coupons or vouchers distributed under the program;

"(C) the average amount distributed in coupons to each recipient; and

"(D) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a compilation of the data collected under paragraph (8).

"(B) The compilation shall be submitted by May 1, 1995.

"(10)(A) There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $9,500,000 for fiscal year 1995.

"(B)(i) Each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unobligated funds shall be returned to the Secretary by February 1st of the following fiscal year.

"(ii) The Secretary shall establish procedures to reallocate funds that are returned by any State as provided in clause (i), or that are not allocated under clauses (i) and (ii) of paragraph (6)(G). Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.

"(11) For purposes of this subsection:

"(A) The term 'coupon' means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

"(B) The term 'program' means—

"(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

"(ii) farmers' market nutrition program authorized by this subsection.

"(C) The term 'recipient' means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection.

"(D) The term 'State agency' has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State.".

SEC. 933. CONFORMING AMENDMENT.

Section 501 of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1668) is repealed.

Subtitle D—Procurement of Infant Formula for WIC

SEC. 941. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 942. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no less frequently than annually, solicit bids for a joint cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a joint cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a joint contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) The Secretary, in soliciting bids for contracts to be awarded under subparagraph (G), and State agencies not participating in a contract awarded pursuant to subparagraph (G), shall consider soliciting bids for each type of infant formula (such as milk- or soy-based) separately.

"(ii) In carrying out clause (i), the Secretary and State agencies shall take into account—

"(I) whether the number of manufacturers and other suppliers eligible to bid will be increased under the approach described in clause (i);

"(II) any administrative issues; and

"(III) whether the total rebates or discounts received are likely to increase under such an approach.

"(iii) State agencies deciding not to accept bids for each type of formula separately shall advise the Secretary of the basis for the decision.

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding separate bid solicitations, along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) encourage alternative types of contracting for the acquisition of supplemental foods, including soliciting bids for each type of infant formula (such as milk or soy-based) separately;

"(ii) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(iii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iv) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(v) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of the person, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened.

"(ii) The Secretary shall determine the length of the disqualification referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification

and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.".

SEC. 943. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1993, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.".

SEC. 944. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) efforts to attempt to increase competition among infant formula manufacturers through soliciting or accepting bids for each type of infant formula (milk or soy-based) separately;

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.".

SEC. 945. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

Subtitle E—Indian Subsistence Farming Demonstration Grant

SEC. 951. PURPOSES.

The purposes of this subtitle are to—

(1) provide technical assistance and training through the Extension Service in the Department of Agriculture to Indian tribes and Alaska Natives for the development and operation of subsistence farming programs to improve the nutritional health of Indians living on or near Indian reservations;

(2) establish the Indian subsistence farming demonstration grant program within the Department of Agriculture; and

(3) provide a supplemental source of fresh produce for Indians and Alaska Natives who—

(A) have special dietary needs;

(B) are eligible individuals (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) are participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

SEC. 952. DEFINITIONS.

For the purposes of this subtitle:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an Indian who—

(A) is identified by the Secretary as having special dietary needs;

(B) is an eligible individual (as defined in section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(1)); or

(C) is participating in—

(i) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et. seq.);

(ii) the food distribution program on Indian reservations established under section 4(b) of such Act (7 U.S.C. 2013(b)); or

(iii) the special supplemental food program for women, infants and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) INDIAN.—The term "Indian" means a person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation (as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(3) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning given to the term "reservation" under section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, Regional Corporation, or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(5) INTER-TRIBAL CONSORTIUM.—The term "inter-tribal consortium" shall mean a partnership between—

(A) an Indian tribe or tribal organization on an Indian reservation; and

(B) one or more Indian tribes or tribal organizations of other Indian tribes.

(6) PROGRAM.—The term "program" means any subsistence farming program funded or assisted under this subtitle.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 953. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may establish an Indian subsistence farming demonstration grant program that provides grants to any Indian tribe, or intertribal consortium, for the establishment on Indian reservations of subsistence farming operations that grow fresh produce for distribution to eligible recipients.

(b) APPLICATION.—Any Indian tribe or tribal consortium may submit to the Secretary an application for a grant under this subtitle. Any such application shall—

(1) be in such form as the Secretary may prescribe;

(2) be submitted to the Secretary on or before the date designated by the Secretary; and

(3) specify—

(A) the nature and scope of the subsistence farming project proposed by the applicant;

(B) the extent to which the project plans to use or incorporate existing resources and services available on the reservation; and

(C) the number of Indians who are projected as eligible recipients of produce grown under the project.

SEC. 954. TRAINING AND TECHNICAL ASSISTANCE.

The Extension Service may conduct, with respect to the projects established under this title, site surveys, workshops, short courses, training, and technical assistance on such topics as nutrition food preservation and preparation techniques, spacing, depth of seed placement, soil types, and other aspects of subsistence farming operations.

SEC. 955. TRIBAL CONSULTATION.

An Indian tribe participating in any subsistence farming program established under this subtitle shall consult with appropriate tribal and Indian Health Service officials regarding the specific dietary needs of the population to be served by the operation of the Indian subsistence farming project.

SEC. 956. USE OF GRANTS.

Funds provided under this subtitle may be used for—

(1) the purchase or lease of agricultural machinery, equipment, and tools for the operation of the program;

(2) the purchase of seeds, fertilizers, and such other resources as may be required for the operation of the program;

(3) the construction of greenhouses, fences, and other structures or facilities;

(4) accounting and distribution of produce grown under the program; and

(5) the employment of persons for the management and operation of the program.

SEC. 957. AMOUNT AND TERM OF GRANT.

(a) AMOUNT.—The maximum amount of any grant awarded under this subtitle shall not exceed $50,000.

(b) TERM.—The maximum term of any grant awarded under this subtitle shall be 3 years.

SEC. 958. OTHER REQUIREMENTS.

Each recipient of a grant awarded under this subtitle shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the grant is made;

(B) ensure that the grant funds are expended for the purposes for which the grant was made; and

(C) ensure that the produce grown is distributed to eligible recipients on the reservation; and

(2) submit to the Secretary at the close of the term of the grant a final report that shall include such information as the Secretary may require.

SEC. 959. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $2,000,000 for each of the fiscal years 1993 through 1995.

Subtitle F—Technical Amendments

SEC. 961. TECHNICAL AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended—

(1) in section 3 (7 U.S.C. 2012)—

(A) in subsection (j), by striking "section 3(p) of this Act" and inserting "subsection (p)";

(B) in subsection (o)(6), by striking "per centum" and inserting "percent"; and

(C) by redesignating subsection (u) as subsection (t);

(2) in section 5 (7 U.S.C. 2014)—

(A) in subsection (d)(2), by striking "section 5(f) of this Act" and inserting "subsection (f)";

(B) in subsection (h)(1), by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(C) in subsection (k)(2), by moving the margin of subparagraph (E) to the left so as to align with the margin of subparagraph (D);

(3) in section 6 (7 U.S.C. 2015)—

(A) in subsection (c)(1)(A), by moving the margin of clause (ii) to the left so as to align with the margin of clause (i);

(B) in subsection (d)(1)(A)—

(i) by striking "who is physically" and inserting "who is a physically";

(ii) by striking "Secretary;" in clause (i) and all that follows through "refuses" in clause (ii) and inserting "Secretary; (ii) refuses"; and

(iii) by striking "two months" in clause (ii) and all that follows through "refuses" in clause (iii) and inserting "two months; or (iii) refuses";

(C) in subsection (d)(4)(B)(vii)—

(i) by striking "Secretary,," and inserting "Secretary,"; and

(ii) by striking "aimed an" and inserting "aimed at"; and

(D) in subsection (d)(4)(D)(iii), by striking "clauses (i) or (ii)" and inserting "clause (i) or (ii)";

(4) in section 9(a)(1) (7 U.S.C. 2018(a)(1)), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(5) in section 11(e) (7 U.S.C. 2020(e))—

(A) in paragraph (2), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3)—

(i) in subparagraph (D), by inserting a close parenthesis after "section 6"; and

(ii) in subparagraph (E), by striking "verified under this Act, and that the State agency shall provide the household" and inserting "verified under this Act,
and that the State agency shall provide the household"; and

(C) in paragraph (15), by striking the period at the end and inserting a semicolon;

(6) in section 11 (7 U.S.C. 2020), by redesignating subsection (p) as subsection (b) and transferring such subsection to the location after subsection (a);

(7) in section 16 (7 U.S.C. 2025)—

(A) in subsection (g), by inserting a comma after "1991"; and

(B) in subsection (h)(4), by striking "the Act" and inserting "this Act";

(8) in the first sentence of section 17(b)(3)(C) (7 U.S.C. 2026(b)(3)(C)), by striking "402(g)(1)(A)" and inserting "402(g)(1)(A))";

(9) in section 19(b)(1)(A)(i) (7 U.S.C. 2028(b)(1)(A)(i)), by striking "directly." and inserting "directly";

(10) in section 20(g)(2) (7 U.S.C. 2029(g)(2))—

(A) by moving the margins of subparagraphs (A) and (B) 2 ems to the left; and

(B) in subparagraph (B), by moving the margins of clauses (i) and (ii) 2 ems to the left; and

(11) in section 22 (7 U.S.C. 2031)—

(A) by inserting the following section heading above the section designation:

"FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN";

(B) in subsection (d)(2)(B), by striking "paragraph (b)(3)(D)(iii)" and inserting "subsection (b)(3)(D)(iii)"; and

(C) in subsection (h), by striking "subsection b(12)" and inserting "subsection (b)(12)".

SEC. 962. AMENDMENT RELATING TO THE HUNGER PREVENTION ACT OF 1988.

Section 1772(h)(5) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3809) is amended by striking "Relief" and inserting "Prevention".

TITLE X—MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 1001. ORGANIC CERTIFICATION.

Title XXI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3935) is amended—

(1) in section 2105 (7 U.S.C. 6504), by striking the period at the end of paragraph (2) and inserting "; and";

(2) in section 2110 (7 U.S.C. 6509)—

(A) in subsection (d)(1)(B), by striking "paraciticides" and inserting "parasiticides"; and

(B) by redesignating subsection (h) as subsection (g);

(3) in section 2111(a)(1) (7 U.S.C. 6510(a)(1)), by striking "post harvest" and inserting "postharvest";

(4) in section 2112(b) (7 U.S.C. 6511(b)), by striking "PRE-HARVEST" and inserting "PREHARVEST";

(5) in section 2116(j)(2) (7 U.S.C. 6515(j)(2)), by striking "certifying such" and inserting "such certifying";

(6) in section 2118(c)(1)(B)(i) (7 U.S.C. 6517(c)(1)(B)(i)), by striking "paraciticides" and inserting "parasiticides"; and

(7) in section 2119(a) (7 U.S.C. 6518(a)), by striking "(to" and inserting "to";

(8) in section 2120(f) (7 U.S.C. 6519(f)), by inserting a comma after "et seq.)" the first place it appears; and

(9) in section 2121(b) (7 U.S.C. 6520(b)), by striking "District Court for the District" and inserting "district court for the district".

SEC. 1002. AGRICULTURAL FELLOWSHIPS.

Section 1543(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293; 104 Stat. 3694) is amended by striking "Program" and inserting "program".

SEC. 1003. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (a)(3), by striking "section" and inserting "subsection";

(2) in subsection (c)(1)(C), by inserting "program" after "agricultural"; and

(3) in subsection (d)(3), by striking "Not later than 1 year after the date of enactment of this Act," and inserting "Not later than November 28, 1991,".

SEC. 1004. PROTECTION OF PETS.

Section 28(b)(2)(F) of the Animal Welfare Act (7 U.S.C. 2158(b)(2)(F)) is amended by striking "subsection (b)" and inserting "subsection (a)".

SEC. 1005. CRITICAL AGRICULTURAL MATERIALS.

The Critical Agricultural Materials Act (7 U.S.C. 178 et seq.) is amended—

(1) in section 5(b)(9) (7 U.S.C. 178c(b)(9)), by striking the first comma after "industrial purposes"; and

(2) in section 11 (7 U.S.C. 178i), by striking "insure" both places it appears and inserting "ensure".

SEC. 1006. AMENDMENTS TO FIFRA AND RELATED PROVISIONS.

(a) IN GENERAL.—The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) in section 2(e)(1) (7 U.S.C. 136(e)(1))—

(A) by striking "section 4" and inserting "section 11";

(B) by striking "use" in the second sentence and inserting "uses"; and

(C) by striking "section 2(ee) of this Act" and inserting "subsection (ee)";

(2) in section 2(q)(2)(A)(i) (7 U.S.C. 136(q)(2)(A)(i)), by striking "size of form" and inserting "size or form";

(3) in section 3(c)(1) (7 U.S.C. 136a(c)(1))—

(A) by striking subparagraphs (E) and (F);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) the complete formula of the pesticide;

"(E) a request that the pesticide be classified for general use or for restricted use, or for both; and"; and

(D) in subparagraph (F) (as so redesignated)—

(i) by striking "(i) with" and inserting "(i) With";

(ii) by striking the semicolon at the end of clauses (i), (ii), and (iii) and inserting a period;

(iii) by striking "(ii) except" and inserting "(ii) Except"; and

(iv) by striking "(iii) after" and inserting "(iii) After";

(4) by conforming the left margin of paragraph (3) of section 4(f) (7 U.S.C. 136a-1(f)) to the left margin of the preceding paragraph;

(5) in section 6(f)(3)(B) (7 U.S.C. 136d(f)(3)(B)), by striking "an unreasonable adverse affect" and inserting "an unreasonable adverse effect";

(6) in section 11 (7 U.S.C. 136i)—

(A) in the section heading, by striking "applicators" and inserting "applicators".

(B) in subsection (b), by striking "this paragraph" each place it appears and inserting "subsection (a)(2)"; and

(C) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)";

(7) in section 12(a)(2) (7 U.S.C. 136j(a)(2))—

(A) by striking "thereunder. It" in subparagraph (F) and inserting "thereunder, except that it";

(B) by striking "or" at the end of subparagraph (O); and

(C) by striking the period at the end of subparagraph (P) and inserting a semicolon;

(8) in section 14(a)(2) (7 U.S.C. 1361(a)(2))—

(A) by striking ": Provided, That" and inserting ", except that"; and

(B) by striking "use" and inserting "uses";

(9) in section 17(a) (7 U.S.C. 136o), by removing the last sentence from paragraph (2) and placing it as a full measure sentence under such paragraph;

(10) in section 20(a) (7 U.S.C. 136r(a)), by striking "insure" and inserting "ensure"; and

(11) in section 26(c) (7 U.S.C. 136w-1(c)), by striking "use" and inserting "uses".

(b) GENDER.—

(1) Such Act is amended by striking "he" each place it appears in sections 3(c)(2)(A), 3(c)(5), 3(c)(6), 3(d)(1)(A), 3(d)(1)(B), 3(d)(1)(C), 3(d)(2), 5(b), 5(e), 5(f), 6(a)(1), 6(b), 6(c)(1), 6(c)(3), 7(b), 8(a), 9(c)(3), 10(c), 11(b), 16(b), 16(d), 18, 20(a), 21(b), 25(a)(3), 25(b), 25(c)(5), and 25(d) (7 U.S.C. 136a(c)(2)(A), 136a(c)(5), 136a(c)(6), 136a(d)(1)(A), 136a(d)(1)(B), 136a(d)(1)(C), 136a(d)(2), 136c(b), 136c(e), 136c(f), 136d(a)(1), 136d(b), 136d(c)(1), 136d(c)(3), 136e(b), 136f(a), 136g(c)(3), 136h(c), 136i(b), 136n(b), 136n(d), 136p, 136r(a), 136s(b), 136w(a)(3), 136w(b), 136w(c)(5), and 136w(d)) and inserting "the Administrator".

(2) Such Act is amended by striking "his" each place it appears in sections 3(c)(2)(A), 3(c)(3)(A), 3(c)(6), 6(b), 6(c)(1), 6(d), 10(b), 11(a)(2), 16(b), 17(c), 18, 21(b), and 25(c)(4) (7 U.S.C. 136a(c)(2)(A), 136a(c)(3)(A), 136a(c)(6), 136d(b), 136d(c)(1), 136d(d), 136h(b), 136i(a)(2), 136n(b), 136o(c), 136p, 136s(b), and 136w(c)(4)) and inserting "the Administrator's".

(3) Such Act is amended—

(A) in section 2(e)(2) (7 U.S.C. 136(e)(2)), by striking "him or his" and inserting "the applicator or the applicator's";

(B) in section 2(e)(3), by striking "he" and inserting "the applicator";

(C) in section 6(a)(2) (7 U.S.C. 136d(a)(2), by striking "he" and inserting "the registrant";

(D) in section 6(c)(3), by striking "him" and inserting "the Administrator";

(E) in section 6(d), by striking "him" and inserting "the Administrator";

(F) in section 7(c)(1) (7 U.S.C. 136e(c)(1), by striking "he" each place it appears and inserting "the producer";

(G) in section 7(c)(2)—

(i) by striking "him" and inserting "the Administrator"; and

(ii) by striking "he" and inserting "the producer";

(H) in the fourth sentence of section 9(a)(2) (7 U.S.C. 136g(a)(2)), by striking "he" and inserting "the officer or employee";

(I) in the third sentence of section 9(c)(1), by striking "his" and inserting "the person's";

(J) in section 10(a) (7 U.S.C. 136h(a)), by striking "his" and inserting "the applicant's";

(K) in section 11(a)(1) (7 U.S.C. 136i(a)(1))—

(i) in the ninth sentence, by striking "his" and inserting "the applicator"; and

(ii) in the last sentence, by striking "him" and inserting "the Administrator";

(L) in section 12(a)(2)(C) (7 U.S.C. 136j(a)(2)(C))—

(i) by striking "his" and inserting "the person's"; and

(ii) by striking "he" and inserting "the person";

(M) in section 12(a)(2)(D), by striking "his" and inserting "the person's";

(N) in section 12(b)(1)—

(i) by striking "he" and inserting "the person";

(ii) by striking "him" and inserting "the person";

(O) in section 12(b)(3), by striking "his official duties" and inserting "the official duties of the public official"; and

(P) in the second sentence of section 16(b) (7 U.S.C. 136n(b)), by striking "him" and inserting "the Administrator".

(c) UNEXECUTABLE AMENDMENT.—The phrase sought to be struck in section 102(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988 (Public Law 100-532; 102 Stat 2667) shall be deemed to be "an end-use product".

(d) RECORDKEEPING.—Section 1491 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 136i-1) is amended—

(1) in subsection (a), by striking "(7 U.S.C. 136a(d)(1)(C))" and inserting "(7 U.S.C. 136a(d)(1)(C)))"; and

(2) in subsection (d)(1), by inserting "of" after "fine".

(e) MAINTENANCE FEE.—Paragraph (5) of section 4(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)) is amended to read as follows:

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by January 15 of each year of—

"(i) $650 for the first registration; and

"(ii) $1,300 for each additional registration, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(C) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(D) The maximum annual fee payable under this paragraph by—

"(i) a registrant holding not more than 50 pesticide registrations shall be $55,000; and

"(ii) a registrant holding over 50 registrations shall be $95,000.

"(E)(i) For a small business, the maximum annual fee payable under this paragraph by—

"(I) a registrant holding not more than 50 pesticide registrations shall be $38,500; and

"(II) a registrant holding over 50 pesticide registrations shall be $66,500.

"(ii) For purposes of clause (i), the term 'small business' means a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to the most recent maintenance fee billing cycle, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(F) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(G) The authority provided under this paragraph shall terminate on September 30, 1997.".

(f) REGISTRATION AND EXPEDITED PROCESSING FUND.—Section 4(k)(3)(A) of such Act (7 U.S.C. 136a-1(k)(3)(A)) is amended by striking "each fiscal year not more than $2,000,000 of the amounts in the fund" and inserting "for each of the fiscal years 1992, 1993, and 1994, 17th of the maintenance fees collected, up to $2 million each year".

SEC. 1007. GRAIN STANDARDS.

The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75), by striking "The" in subsections (i), (j), (k), (u), (v), (w), (x), (z), and (aa) and inserting "the"; and

(2) in section 17B(a) (7 U.S.C. 87f-2(a))—

(A) by striking "The" and inserting "On December 1 of each year, the";

(B) by striking "committee on Agriculture" and inserting "Committee on Agriculture; and

(C) by striking "one year" and all that follows through "such committees".

SEC. 1008. PACKERS AND STOCKYARDS.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) is amended—

(1) in section 202(c) (7 U.S.C. 192(c)), by striking "dealer. any" and inserting "dealer, any"; and

(2) in the first sentence of section 317(a) (7 U.S.C. 217a(a)), by striking "charging and collection, at any stockyard" and inserting "charging and collection, in transactions at any stockyard, market agency, or dealer"; and

(3) in section 406(b)(2) (7 U.S.C. 227(b)(2)), by striking the comma after "unmanufactured form,".

SEC. 1009. REDUNDANT LANGUAGE IN WAREHOUSE ACT.

Section 17(c)(1)(B) of the United States Warehouse Act (7 U.S.C. 259(c)(1)(B)) is amended by striking ", or to a specified person".

SEC. 1010. PERISHABLE AGRICULTURAL COMMODITIES.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.), is amended—

(1) in the first section (7 U.S.C. 499a)—

(A) by striking out "That when used in this Act—" and inserting the following:

"SECTION 1. SHORT TITLE AND DEFINITIONS.

"(a) SHORT TITLE.—This Act may be cited as the 'Perishable Agricultural Commodities Act, 1930'.

"(b) DEFINITIONS.—For purposes of this Act:"; and

(B) by striking the semicolon at the end of paragraphs (1), (2), (3), (4), (5), (6), and (9) and inserting a period;

(2) in section 4(a) (7 U.S.C. 499d(a)), by striking "anual" in the material before the first proviso and inserting "annual";

(3) in section 5(c)(2) (7 U.S.C. 499e(c)(2)), by striking "(as" and inserting ", as";

(4) in section 6 (7 U.S.C. 499f)—

(A) by adding a period at the end of subsection (c); and

(B) by striking the semicolon at the end of subsection (d) and inserting a period;

(5) in section 7 (7 U.S.C. 499g), by striking the semicolon at the end of subsections (a), (b), and (c) and inserting a period;

(6) in section 8(a) (7 U.S.C. 499h(a))—

(A) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(B) by striking the semicolon at the end of the subsection and inserting a period;

(7) in section 14(a) (7 U.S.C. 499n(a))—

(A) by striking "(7 U.S.C., Supp. 2, secs. 1 to 17 (a))" and inserting "(7 U.S.C. 1 et seq.)"; and

(B) by striking the semicolon at the end of the subsection and inserting a period; and

(8) by striking section 18 (7 U.S.C. 499r).

SEC. 1011. EGG PRODUCTS INSPECTION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) food borne illness is a serious health problem;

(B) its incidence can be reduced through proper handling of food; and

(C) eggs are perishable and therefore are particularly susceptible to supporting microbial growth if proper temperature controls are not maintained.

(2) PURPOSES.—It is the purpose of this section to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect the health and welfare of consumers.

(b) INSPECTION OF EGG PRODUCTS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraphs (2), (3), and (4), the Secretary shall make such inspections as the Secretary considers appropriate of a facility of an egg handler (including a transport vehicle) to determine if shell eggs destined for the ultimate consumer—

"(A) are being held under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit after packing; and

"(B) contain labeling that indicates that refrigeration is required.

"(2) In the case of a shell egg packer packing eggs for the ultimate consumer, the Secretary shall make an inspection in accordance with paragraph (1) at least once each calendar quarter.

"(3) The Secretary of Health and Human Services shall cause such inspections to be made as the Secretary considers appropriate to ensure compliance with the requirements of paragraph (1) at food manufacturing establishments, institutions, and restaurants, other than plants packing eggs.

"(4) The Secretary shall not make an inspection as provided in paragraph (1) on any egg handler with a flock of not more than 3,000 layers.

"(5) A representative of the Secretary and the Secretary of Health and Human Services shall be afforded access to a place of business referred to in this subsection, including a transport vehicle, for purposes of making an inspection required under this subsection.".

(c) PROHIBITED ACTS.—Section 8 of such Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No egg handler shall possess any eggs after the eggs have been packed into a container that is destined for the ultimate consumer unless the eggs are stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as prescribed by rules and regulations promulgated by the Secretary.".

(d) PENALTIES.—Section 12 of such Act (21 U.S.C. 1041) is amended—

(1) in the first sentence of subsection (a), by striking "$1,000" and inserting "$5,000";

(2) by designating the last sentence of subsection (a) as subsection (d) and transferring such subsection to the end of the section;

(3) by redesignating subsection (b) as subsection (e) and transferring such subsection to the end of the section;

(4) by redesignating subsection (c) as subsection (b); and

(5) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as otherwise provided in this subsection, any person who violates any provision of this Act or any regulation issued under this Act, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation to which this subparagraph applies shall be considered a separate offense.

"(B) No penalty shall be assessed against any person under this subsection unless the person is given notice and opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

"(C) The amount of the civil penalty imposed under this subsection—

"(i) shall be assessed by the Secretary, by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and

"(ii) may be reviewed only as provided in paragraph (2).

"(2)(A) The determination and order of the Secretary under this subsection shall be final and conclusive unless the person against whom such a violation is found under paragraph (1) files an application for judicial review within 30 days after service of the order in the United States court of appeals for the circuit in which the person has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit.

"(B) Judicial review of any such order shall be based on the record on which the determination and order are based.

"(C) If the court determines that additional evidence needs to be taken, the court shall order the hearing to be reopened for this purpose in such manner and on such terms and conditions as the court considers proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, on the basis of the additional evidence so taken.

"(3) If any person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General. The Attorney General shall institute a civil action to recover the amount assessed in an appropriate district court of the United States. In the collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

"(4) All penalties collected under this subsection shall be paid into the Treasury of the United States.

"(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

"(6) Paragraph (1) shall not apply to an official plant.".

(e) REPORTING OF VIOLATION TO UNITED STATES ATTORNEY FOR INSTITUTION OF CRIMINAL PROCEEDINGS.—The last sentence of section 13 of such Act (21 U.S.C. 1042) is amended by inserting before the period at the end the following: "or an action to assess civil penalties".

(f) IMPORTS.—Section 17(a) of such Act (21 U.S.C. 1046(a)) is amended

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (4), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3) No eggs packed into a container that is destined for the ultimate consumer shall be imported into the United States unless the eggs are accompanied by a certification that the eggs have at all times after packaging been stored and transported under refrigeration at an ambient temperature of no greater than 45 degrees Fahrenheit, as required by sections 5(e) and 8(c).".

(g) RELATION TO OTHER AUTHORITIES.—The first sentence of section 23(b) of such Act (21 U.S.C. 1052(b)) is amended by striking "and (2)" and inserting the following: "(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, Federal requirements, and (3)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 12 months after the Secretary of Agriculture promulgates final regulations implementing this section and the amendments.

SEC. 1012. PREVENTION OF INTRODUCTION OF BROWN TREE SNAKES TO HAWAII FROM GUAM.

(a) IN GENERAL.—The Secretary of Agriculture shall take such action as may be necessary to prevent the inadvertent introduction of brown tree snakes into other areas of the United States from Guam.

(b) INTRODUCTION INTO HAWAII.—The Secretary shall initiate a program to prevent the introduction of the brown tree snake into Hawaii from Guam. In carrying out this section, the Secretary shall consider the use of sniffer or tracking dogs, snake traps, and other preventative processes or devices at aircraft and vessel loading facilities on Guam, Hawaii, or intermediate sites serving as transportation points that could result in the introduction of brown tree snakes into Hawaii.

(c) AUTHORITY.—The Secretary shall use the authority provided under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) to carry out subsections (a) and (b).

(d) CONTROL OF BROWN TREE SNAKES.—The Act of March 2, 1931 (46 Stat. 1468, chapter 370; 7 U.S.C. 426) is amended by inserting "brown tree snakes,; after "rabbits,".

(e) IMPORTATION OF BROWN TREE SNAKES.—The first sentence of section 42(a)(1) of title 18, United States Code, is amended by inserting "brown tree snakes," after "reptiles,".

SEC. 1013. GRANT TO PREVENT AND CONTROL POTATO DISEASES.

Notwithstanding any other provision of law, funds available to the Animal and Plant Health Inspection Service of the Department of Agriculture for fiscal year 1992 shall be made available as a grant in the amount of $530,000 to the State of Maine Department of Agriculture, Food, and Rural Resources for potato disease detection, control, prevention, eradication and related activities, including the payment of compensation to persons for economic losses associated with such efforts conducted or to be conducted in the State of Maine. Any unobligated balances of funds previously appropriated or allocated for potato disease efforts by the Secretary of Agriculture shall remain available until expended by the Secretary.

SEC. 1014. COLLECTION OF FEES FOR INSPECTION SERVICES.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "For airport inspection services, the Secretary shall collect no more than $62,000,000 in fiscal year 1992 and $67,000,000 in fiscal year 1993 from airline passengers and commercial aircraft operators. Fees may only be collected from commercial aircraft operators to the extent that the Secretary estimates that the amounts referred to in the preceding sentence could not be collected from airline passengers.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following new clause:

"(ii) REIMBURSEMENT.—The Secretary of the Treasury shall use the Account to provide reimbursements to any appropriation accounts that incur the costs associated with the administration of this subsection and all other activities carried out by the Secretary at ports in the customs territory of the United States and at preclearance or preinspection sites outside the customs territory of the United States in connection with the enforcement of the animal quarantine laws."; and

(3) in paragraph (4), by striking "The" and inserting "Subject to the limits set forth in paragraph (1), the".

SEC. 1015. MEAT AND POULTRY INSPECTION.

(a) AMENDMENTS TO FEDERAL MEAT INSPECTION ACT.—Section 23 of the Federal Meat Inspection Act (21 U.S.C. 623) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of meat food products that contain meat components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the meat component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the meat food product;

"(B) the resulting meat food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting meat food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in the Secretary's discretion) whenever the Secretary determines such action is necessary to effectuate the purposes of this Act.".

(b) AMENDMENTS TO POULTRY PRODUCTS INSPECTION ACT.—Section 15 of the Poultry Products Inspection Act (21 U.S.C. 464) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (e) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d)(1) To the extent consistent with the protection of public health, the Secretary may, under such sanitary and handling conditions as the Secretary may prescribe, through notice and comment rulemaking, exempt from the inspection requirements of this Act types of poultry food products that contain poultry components that have been prepared, inspected, and passed in a cured or cooked form as ready for consumption in compliance with the requirements of this Act if—

"(A) the component is to be further processed only by slicing, cutting, grinding, or similar mechanical functions before being placed on or in the poultry food product;

"(B) the resulting poultry food product would under the normal circumstance be adequately cooked prior to human consumption in a manner that protects public health; and

"(C) the resulting poultry food product is to be served in public or private nonprofit institutions under such supervision as the Secretary determines will protect the public health.

"(2) The Secretary may refuse, withdraw, or modify any exemption under this subsection (in

the Secretary's discretion) whenever the Secretary determines the action is necessary to effectuate the purposes of this Act.".

(c) PUBLIC COMMENT AND HEARING ON PUBLIC HEALTH ISSUES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) solicit public comment through a Federal Register publication on the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b); and

(B) conduct at least one hearing regarding the potential public health issues raised by granting the inspection exemptions described in the amendments made by subsections (a) and (b).

(2) TESTIMONY.—The Secretary shall invite the National Academy of Sciences, food safety scientists, food industry representatives, the Food and Drug Administration, the Centers for Disease Control, public interest groups, and other scientific experts, to testify or submit testimony for the record. A transcript shall be taken of the proceedings.

(d) STUDIES OF EXEMPTIONS.—

(1) EXEMPTION FOR PRODUCTS THAT HAVE NOT BEEN HISTORICALLY CONSIDERED BY CONSUMERS AS PRODUCTS OF THE MEAT OR POULTRY FOOD INDUSTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall—

(A) contract with the National Academy of Sciences to conduct a study on the potential impact on consumers, on the affected industries, on public health, and on the role of the Department of Agriculture, of striking, in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)), and in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)), the exemption for products that have not been historically considered by consumers as products of the meat or poultry food industry; and

(B) report the results of the study to Congress.

(2) OTHER EXEMPTIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(A) contract with the National Academy of Sciences to examine other exemptions regarding consumers, the affected industries, public health, and the Department of Agriculture; and

(B) report the results of the study to Congress.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective 1 year after the date of enactment of this Act.

SEC. 1016. FEES FOR LABORATORY ACCREDITATION.

Section 1327 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138f) is amended to read as follows:

"SEC. 1327. FEES.

"(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this subtitle, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, without prior appropriation or apportionment, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

"(b) AMOUNT OF FEE.—The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a).

"(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under a statutory authority set forth in subsection (a) or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

"(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a).".

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) INCLUSION IN FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The amendments made by the following provisions of this Act shall take effect as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) to which the amendment relates:

(1) Section 201 (other than section 201(f)).

(2) Section 307.

(2) Section 338.

(3) Title V.

(4) Section 602(c).

(5) Section 701 (except as provided in subsection (c) of this section).

(6) Section 702.

(7) Section 703.

(c) MISCELLANEOUS AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The amendments made by section 701(h) of this Act to any provision specified therein shall take effect as if such amendments had been included in the Act that added the provision so specified at the time such Act became law.

(d) FOOD AND NUTRITION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, title IX of this Act, and the amendments made by title IX of this Act, shall not apply with respect to certification periods beginning before the date of the enactment of this Act.

(2) PASS ACCOUNTS EXCLUSION.—

(A) IN GENERAL.—The amendment made by section 904(3) of this Act shall be effective on the earlier of—

(i) the date of enactment of this Act;

(ii) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv)); or

(iii) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(B) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (as redesignated by section 951(6) of this Act), no State agency shall be required to search its files for cases to which the amendment made by section 905(3) of this Act applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (as added by section 905(3) of this Act) was raised with the State agency prior to the date of enactment of the Act.

(3) PERFORMANCE STANDARDS FOR EMPLOYMENT AND TRAINING PROGRAMS.—The amendments made by section 910 of this Act shall become effective on September 30, 1991.

(4) DEFINITION OF RETAIL FOOD STORE.—The amendment made by section 918 of this Act shall take effect on October 1, 1990, and shall not apply with respect to any period occurring before such date.

(5) FARMERS' MARKET NUTRITION PROGRAM.—

(A) IN GENERAL.—Subtitle C of title IX of this Act, and the amendments made by such subtitle, shall become effective on October 1, 1991, and shall be implemented beginning on October 1, 1991.

(B) GRANT PROGRAM.—Notwithstanding section 553 of title 5, United States Code, the Secretary of Agriculture may administer subtitle C of title IX of this Act, and the amendments made by such subtitle, throughout fiscal year 1992 as a grant program under agreements with participating States and not pursuant to regulations published in the Federal Register.

AMENDMENT NOS. 1430 AND 1431

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to send to the desk two amendments en bloc, and I ask their immediate consideration; that the amendments be agreed to en bloc, the amendments being offered in behalf of Senators LEAHY and FOWLER.

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

The amendments (No. 1430 and 1431) considered and agreed to en bloc are as follows:

AMENDMENT NO. 1430

On page 321, line 9, insert after "laws." the following new sentence: "Any such reimbursement shall be subject to appropriations under clause (v)."

On page 263, strike line 14 and all that follows through line 3 on page 265.

AMENDMENT NO. 1431

At the end of section 1016 of the Committee substitute to H.R. 3029, add a new title XI as follows:

TITLE XI

SECTION 1. SHORT TITLE.

This Title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premeditated purpose of preventing and interfering with the conduct of lawful recreational hunting within the boundaries of national forests and other Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) national forests comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting in national forests in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within national forests and on other Federal lands.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a national forest, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a national forest;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a national forest or upon a public or private road, highway, path, trail, or other normal route of access to a national forest;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a national forest, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 5. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 4 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 4.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of the Forest Service or other Federal agency that a person violated section 4, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 4 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within national forests; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within national forests.

SEC. 6. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 4 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 4, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This Act is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this Act shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 8. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FOWLER. Mr. President, I rise today to introduce the Recreational Hunting Safety and Preservation Act as an amendment to H.R. 3029, the Food, Agriculture, Conservation and Trade Act Amendments of 1991.

Mr. President, as the Senate labors on this evening to complete its business before the Thanksgiving holiday, hunters across this Nation are headed into the field to take part in a recreational activity that is as American as pumpkin pie.

The deer, quail, and rabbit seasons are in full swing in Georgia, and hunters throughout my home State are enjoying the great outdoors and hoping to put a special treat on the table for their holiday meal.

But in many cases, these lawful, licensed hunters will be blocked from practicing this age-old tradition by self-styled animal rights activists employing tactics that are both illegal and dangerous.

Recently, we have seen this type of lawlessness on the rise on our Federal lands. Hunters are being attacked and harassed by demonstrators seeking to disrupt these lawful hunts.

Presumably these zealots believe themselves to be champions of the environment and protectors of wildlife. But who are they defending against? We all know that, traditionally, lawful hunters have been a major force in conservation efforts.

We can all think of many cases in which sport-hunting organizations have led the way in efforts to preserve wildlife and wildlife habitat—forests, wetlands, waterway corridors, prairies, and other homes to native birds and animals. Lawful hunters have been important allies in our efforts to preserve and improve our natural environment, including our wildlife heritage.

Yet a handful of antihunters are organizing concerted and deliberate efforts, throughout the country, to disrupt lawful hunting activities. Their militant tactics range from verbal abuse to, increasingly, violent confrontation.

Mr. President, we should not allow this harassment to dictate our national traditions or our national environmental policies. Nor can we allow a lawful activity, but one that requires extreme safety precautions, to degenerate into a truly dangerous situation both for hunters and protestors.

We should not let ourselves be lulled into thinking that these particular confrontations are harmless, that they should be overlooked because some might find the cause of saving animals sympathetic. We cannot afford to waive respect for lawful behavior, or to condone lawlessness, on the one hand and seek to eliminate crime on the other.

The amendment I am introducing is modeled after the best features of similar laws which already exist in 41 States. I will prohibit knowing and intentional harassment of hunters on national forestlands. It provides for civil penalties, injunctive relief, and civil lawsuits.

Today, sport hunting is a highly regulated activity that is a critical component of wildlife management. Unfortunately, we have lost much of the wide open space we once enjoyed. Habitats have dwindled, and many natural predators, regrettable, have disappeared. As a result, hunting is essential to maintain healthy population levels for many species.

License fees and excise taxes from over 16 million lawful hunters generate more than $3 million a day for wildlife habitat and management. Because of these efforts, Americans enjoy increasing numbers of deer, turkey, bear, elk, upland game birds, antelope, and many nongame species.

So it is a serious mistake in my opinion to brand hunters as somehow enemies of wildlife or enemies of the environment. I also think it is most highly regrettable to see fanaticism overwhelm lawful and responsible conduct.

There is plenty of room for debate and disagreement in this country. But the firing line is not the proper forum. Let's draw the distinction between democracy and anarchy. Let's channel legitimate debate through appropriate channels.

Meanwhile, let us show our support the lawful right of hunters to their place in the great outdoors and pass this legislation today. We need to send a strong message to those who would illegally obstruct the rights of hunters today, before the hunting season is in full swing around the country. We need to make it clear today that we expect our laws to be respected—that we mean for law-abiding citizens to go about their business unmolested.

Mr. SANFORD. Mr. President, I rise to offer my strong and sincere support to the recreational hunting safety and preservation amendment to the agriculture technical corrections bill to the 1990 farm bill. Such action is long overdue, and hunter protection is an issue for which I have fought and one which I think deserves legislative affirmation. In early June of this year, I introduced, with the help of Senators BREAUX, SYMMS, COCHRAN, and HATCH, a bill which is similar in nature to the language now before the Senate.

I wish to especially thank Senator FOWLER, who has worked diligently to bring the Nation's attention to this cause, and Senator BURNS and other colleagues who have championed hunters' rights.

It is unfortunate that the tradition of responsible hunting in this country is being challenged by those who have little understanding of the sport, and those who wish to see all hunting of wildlife eliminated. The harassment of hunters and the obstruction of lawful hunts has become increasingly frequent in recent months. In 41 States it is now illegal to harass hunters; I am glad Congress is taking action to establish similar guidelines for our national forests. This amendment will protect citizens attempting to carry out a lawful hunt within a national forest.

Those persons found to have intentionally disturbed wildlife resources or abused property in order to disrupt the lawful taking of these resources may be assessed a civil penalty of not less than $1,000. If this violation involves the use of force or violence, penalties may not exceed $10,000. Funds collected from civil penalties imposed under the act will aid State wildlife restoration projects, the North American waterfowl management plan, or other wildlife enhancement programs beneficial to our national forests.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting antihunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

Each year, American hunters spend several hundred million dollars for licenses, duck stamps and excise taxes on equipment and ammunition. Much of that money is used to finance game research and management programs and to purchase important wildlife habitats that will benefit all species. The American hunter is a responsible conservationist who knows, and adds value to game species, and thereby ensures their preservation. These men and women have been instrumental in efforts which have led to dramatic increases in populations of white-tailed deer, elk, wild turkeys, wood ducks, and other species.

Mr. President, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. This amendment will help ensure stable and healthy populations of game animals for hunters and nonhunters alike. I hope my colleagues will join Senator FOWLER and me in supporting this measure that will protect the property and safety of hunters who abide by all Federal and State game laws in the taking of animals within a national forest.

Mr. LEAHY. Mr. President, the farm bill technical corrections legislation contains a number of technical and other small changes to the Farms for the Future Act of 1990.

In this instance I am making changes, that I think are, in a sense, totally unnecessary. All too often we in Congress are forced to amend laws we have already enacted in order to attempt to force the administration to implement laws as we had originally intended.

This was necessary since the Department has issued regulations that are contrary to the intent and purposes of the act. The Department has made it nearly impossible for the State of Vermont to benefit from the law.

Second, the law clearly requires, and the conference report on the farm bill reiterated the point, that the Department of Agriculture was to provide funding to the State of Vermont for farmland preservation. In spite of clear language requiring the Secretary to implement the program in Vermont, the Department has yet to act.

There is no question that Vermont was entitled to the funding and that the Treasury Department is required to provide the funding to the Agriculture Department to provide to Vermont. The Comptroller General of the United States has so formally ruled.

In spite of the Comptroller General's decision, and in spite of the language in the law, the Department has not implemented the law.

These changes make it once again clear that Vermont is to get funding for its own Farms for the Future Program.

WINTER WHEAT DEFICIENCY PAYMENTS TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to winter wheat farmers in Kansas and elsewhere.

Because of last year's budget cuts, the deficiency payments paid out to farmers participating in the farm program will be smaller this year than in years past. Those payments are reduced by basing the deficiency payment margin on a 12-month weighted average price for wheat rather than by a 5-month weighted average price, as was the case under the 1985 farm bill. Under these provisions, wheat growers would not receive their entire deficiency payment until July of the year following the harvest of the crop rather than in December of the same crop year—as was the case over the past five years.

Mr. President, the provision which has been included in the technical corrections bill merely moves the majority of the payment back up to December payment date. Primarily for cash flow purposes, it is beneficial for farmers to have these payments made immediately preceding the time of the year at which many debt payment obligations come due.

Because the payments are transferred within the same fiscal year, this provision adds no additional cost to the Federal Treasury, nor does it violate the provisions of last year's budget reconciliation. It does put cash in the hands of producers at a time of the year when they most need it, and I thank my colleagues for their cooperation in assuring that this technical correction was made.

CORN/SORGHUM BASE TECHNICAL FIX

Mr. DOLE. Mr. President, the bill making technical corrections to the Food, Agriculture, Conservation, and Trade Act of 1990—last year's farm bill—contains a provision which is of major importance to farmers in Kansas and elsewhere.

In brief, Mr. President, this provision fixes a drafting error in the language of the 1990 farm bill which—if left alone—stands to have drastic operational consequences for producers of feed grains in Kansas and elsewhere. Under the law established by the 1985 farm bill, feed grain farmers—specifically corn and grain sorghum in my State—were able to combine the acreage planted to both corn and sorghum into one feed grains crop acreage base. Within that one base, farmers had the flexibility to plant any mix of feed grains that they desired. That flexibility is vital to these producers, who may need to alter planting decisions based upon weather conditions, pest infestations, and other natural occurring factors which play a central role in the productivity and profitability of any farming operation. It has been one managerial decision which farmers have had the luxury to make without the Government's input.

The drafting of the 1990 bill, however, directed the Secretary of Agriculture to separate these bases and disallow the flexibility of switching planting decisions from one crop to another. Nobody in the House, the Senate, or the conference committee intended for this to happen—but with a 718 page bill it is not difficult to make a few mistakes. The Department of Agriculture was very cooperative in using their discretion to allow producers to follow the 1985 law for this crop year, but a legislative fix is now needed to extend this important provision.

This provision simply reports the flexibility of the 1985 law, and allows planting decisions to remain in the hands of those who should be making them—farmers.

EC THIRD COUNTRY MEAT DIRECTIVE

Mr. DASCHLE. Mr. President, I rise today to voice my extreme concern with the European Community's actions inhibiting U.S. meat exports to the 12 nations of the Community. More than a year ago, November 1, 1990, the European Community shut off all U.S. meat imports under the guise of the third country meat directive.

Only last month, did the European Community agree to relist 14 U.S. slaughter plants as eligible for exporting meat to the Community. This action is a step in the right direction, but the progress has been painfully slow and there is a significant unresolved issue concerning the equivalency betwee United States and EC meat inspection systems.

We can no longer tolerate stalling tactics. Throughout this dispute, EC pork products have been flooding the U.S. market. The EC exported more than $325 million of pork products to the United States last year. The National Pork Producers Council estimates that since November 1990, American pork producers have lost $50 million.

Mr. LEAHY. I too concur with my distinguished colleague from South Dakota. The EC has acted unfairly. This is an important market to U.S. meat producers, and in 1990, U.S. pork and beef exports to the EC totaled $30 million.

The U.S. Trade Representative, with the support of the U.S. meat industry has initiated a 301 investigation for relief from the EC third country meat directive earlier this year.

Final resolution of this issue is dependent on the EC recognizing the equivalence of the U.S. meat inspection system, instead of requiring U.S. plants to operate identically to the EC plants.

Mr. DASCHLE. I have proposed legislation (S. 1738) to declare the EC's third country meat directive a non-tariff trade barrier and to ban EC meat imports into the United States until the EC allows U.S. meat producers full and fair access to EC markets.

I had considered offering this legislation as an amendment to the dairy and disaster assistance bill. However, as a result of meetings that began this month between United States and EC officials to resolve differences in our inspection systems, I will hold my legislation in abeyance at this time. I fully intend, however, to pursue this legislation to ban meat imports from the EC if these issues are not resolved.

In the meantime, I will personally monitor the progress of these proposed meetings, and stand ready to pass legislation should it be necessary.

Mr. LEAHY. I would offer my friend the Senator from South Dakota, my personal commitment to either pursue this issue with the administration or work for passage of this legislation if the European Community fails to make progress in this issue.

Mr. LUGAR. Mr. President, my colleagues have accurately and forcefully explained the situation regarding the European Community's third country meat directive.

While the recent agreement by the EC to relist 14 plants is indeed a step in the right direction, the constant attempts by protectionist elements in the EC to create unnecessary trade barriers to American meat exports cannot continue year after year as they have.

My colleagues and I will continue to support the administration's effort to bring this regrettable situation to a fair conclusion. If that is not possible, then the United States will have to employ remedies available under current trade law to defend the interests of our meat exporters. If those remedies are insufficient, then Congress will need to consider legislation to address the situation.

INVESTMENTS IN RURAL AMERICA

Mr. PRYOR. Mr. President, as the Senator knows some concerns have arisen over the interpretation of provisions of law in the Food, Agriculture, Conservation and Trade Act of 1990 affecting telephone companies and cooperatives that borrow from the REA [Rural Electric Administration]. I had considered offering some technical amendments to clarify current law. However, it was decided that would be unnecessary. The 1990 farm bill did not need to be amended in this technical corrections bill since current law already addressed my concerns.

However, I wanted to make sure that the Senator is in agreement with my interpretation of these provisions.

Under current REA procedures, REA mortgages prohibit a mortgagor from: First, paying dividends on capital stock, membership or equity capital certificates (other than stock certificates dividends); second, making any other distribution to its stockholders, members or subscribers; third, purchasing, redeeming or retiring any of its capital stock, membership or equity capital certificates, or fourth, making any investment in affiliated companies, unless after such action the mortgagor's current assets will equal or exceed its current liabilities, exclusive of current liabilities incurred for addition to plant, and the mortgagor's adjusted net worth will be at least 40 percent of its adjusted assets.

Section 2356 of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 act) creates an exception to the 40 percent rule for investments in affiliates. The previous so-called limited dividend policy restricted rural independent and smaller telephone companies from utilizing their own financial resources to expand their telephone systems and networks and from carrying on related services, much of which is done through corporations owned by a common parent.

These mortgage restrictions and policies also prohibit REA telephone borrowers from investing in the new telecommunications technologies that have not been traditionally considered telephone service, that is cellular. Section 2356 allows telephone companies to make such investments and investments in non-telephone-related rural development projects. This is the main point of this discussion—that these investments are not to be made in urban areas but in rural America.

The intent of that farm bill provision is made clear from the title of section 2356, itself. It is called: "Encouragement of Investment by Telephone Borrowers in Rural Development Projects."

Utilization of telephone company resources as long as it is properly directed is a useful way to enhance, promote, develop, and expand rural telephone companies while permitting them to meet new and rapidly changing technology. Moreover, it is important that both business and residential customers served by REA borrowers have access to the same services and technology as those available from other local exchange and long distance carriers in order to foster rural development.

Section 205(b)(2) defines a qualified telephone borrower as one whose net worth is at least 20 percent of its total assets. This provision is intended to mean that the borrower must satisfy the 20 percent rule before making the investment, not after making it.

In other words, investments in a rural development project including those made to affiliate will not be adjusted out in determining compliance with the minimum net worth rules under both existing or future REA mortgages so long as the investment is to an affiliate that provides basic telephone, cellular, microwave, BETRS, paging satellite, data transmission or other telecommunications service or engages in the sale, manufacture, maintenance, financing, programming, installation or construction of equipment to facilitate providing or improving telecommunications and related services.

These investments would need to take place in the rural communities served by the companies to take advantage of this new provision.

Section 2356 adds to title 11 (7 U.S.C. 922 et seq.) section 205(a) which provides that amounts invested in affiliates by a qualified telephone borrower shall not be considered dividends or distributions of capital so long as such investments do not exceed one-third of the borrower's net worth. It is certainly appropriate that the one-third limitation apply only to investments in rural areas made after section 2356 was adopted.

Mr. LEAHY. I agree with the Senator's assessment of section 2356 and agree that it already provides new and additional investment authority for telephone borrowers to the extent those investments serve rural America.

I do want to point out that aspects of current REA telephone law and policies need to be carefully reviewed with an eye toward possible amendments to reduce any potential for abuse. These points, the points the Senator raise, are simply a clarification of how telephone companies may further assist rural America under current law.

ELDERLY NUTRITION COLLOQUY

Mr. PRYOR. Mr. President, I am very pleased that the farm bill technical corrections amendments contain a provision extending for another year—through fiscal year 1994—the elderly nutrition pilot projects authorized under section 1775 of last year's farm bill. These pilot projects will demonstrate whether the Secretary can effectively provide entitlement commodities to nutrition programs for the elderly through the National Commodity Processing Program.

I was disappointed that the pilot projects did not get off to a fast start. However, at my request, in September of this year, Department of Agriculture staff met with several major elderly nutrition groups to discuss alternative proposals for implementing successful pilot projects. My staff informs me that the meeting was fruitful and candid, and I hope that the Department will begin to implement the pilot projects as soon as possible.

Because of the delay in implementation, it is important that authority for pilot projects be extended through fiscal year 1994. Therefore, I strongly support inclusion of the extension provision in the technical corrections bill and would urge the conferees to retain this provision in the conference report.

In addition, I strongly urge the Secretary of Agriculture to work cooperatively with the major elderly nutrition groups and all interested parties in order to implement successful pilot projects.

Mr. LEAHY. I concur with Senator PRYOR that authority for the elderly nutrition pilot projects should be extended through fiscal year 1994 and pledge to seek inclusion of this provision in the conference report on the technical corrections bill. Moreover, I join Senator PRYOR in urging the Department of Agriculture to work closely with all interested parties to assure successful implementation of the pilot projects.

WATER OR WASTE FACILITY SPECIFICATIONS

Mr. HEFLIN. Mr. President, in the Food Security Act of 1985, Congress included a provision which required the Secretary of Agriculture to take into consideration any recommendation by a loan applicant or borrower concerning the technical design or choice of materials to be used for a water or waste facility. If the Secretary rejects this recommendation, the applicant must be given a comprehensive justification, in writing, for the Secretary's determination. It is my understanding, however, that there are field offices of the Farmers Home Administration [FmHA] that have routinely desregarded this law and FmHA's own regulation.

To address this problem, I believe it would be prudent for the Administrator of the FmHA to immediately issue an administrative notice to all of FmHA's field offices noting the following: "In the approval and administration of a loan made by the Farmers Home Administration for a water or waste disposal facility, FmHA shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility. If FmHA determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, FmHA shall provide such applicant or borrower with a comprehensive justification, in writing, stating the reasons why alternative designs or materials were required for the project."

Mr. LEAHY. That is an excellent idea and I believe the Department should follow up on this request.

SECTION 922

Mr. LEAHY. In reference to section 922, it is my understanding that the reference to minimizing penalties does not mean that the minimum penalty possible would always be applied when a violation is caused by a nonmanagement official such as a clerk as opposed to the owner. Rather,

it means that the penalty assessed when a clerk commits a violation would be less than when an owner commits the same violation. Is this a correct interpretation?

Mr. LUGAR. Yes. In the case of food stamps, the Senator's interpretation is correct.

Mr. SIMPSON. Mr. President, I rise in support of H.R. 3029, the technical corrections bill to the 1990 farm bill. This bill does "fine-tune" previously existing provisions in the omnibus package of farm legislation which we passed last year.

The bill includes numerous provisions which assist the vast majority of our Nation's agricultural producers. Those provisons range from changing support payment dates to establishing critical programs necessary for the survival of some of our country's oldest farm industries.

I am especially pleased that S. 1935 was included as an amendment to this important bill. I introduced that bill, with Senators WALLOP, BURNS, BAUCUS, CRAIG, DASCHLE, SEYMOUR, PRESSLER, GARN, HATCH, DOMENICI, and GRASSLEY. It required the Secretary of Agriculture to evaluate the current marketing and price reporting system and followup with the establishment of a lamb price and supply reporting service based on the findings.

Lamb producers from across the country have faced the incredible challenge of determining the workings of the lamb market without adequate market information in the last 10 years. That lack of information has led to the recent decline in the industry which has forced many producers to abandon a livelihood which was an important part of their heritage.

I am optimistic that the technical corrections bill provides necessary changes for many agricultural programs. I was pleased with the efforts and complete cooperation of my fine friend and colleague Senator LEAHY. His assistance was truly invaluable and I personally thank him for including these most important lamb provisions. I would also like to thank my good friend Senator DICK LUGAR who so generously supported the lamb provisons.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I know the distinguished Senator from Pennsylvania wished to address the Senate. I believe there is a period before we are able to complete action.

So I ask unanimous consent that the Senator from Pennsylvania be recognized for 5 minutes to address the Senate.

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

THE ATTENDING PHYSICIAN

Mr. WOFFORD. Mr. President, earlier today I sought to amend the Public Health Service Act to require that Members of Congress pay the full market value for the free medical care they now receive. There were objections, and I reluctantly withdrew my amendment.

The Senate is now considering several pieces of vital legislation such as reauthorizing sections of the Public Health Service Act and I have no desire to jeopardize these important bills.

Nevertheless, I believe my bill is vitally important. I am willing to stay and work on this legislation and other matters of vital importance to working Americans such as tax relief and ways to create more jobs.

But if Congress decides to adjourn, I will be back here in January, when we reconvene, pushing for its passage. I intend to do so because the enactment of this bill will be a significant step toward putting us on the course to an affordable health insurance system for all Americans.

Today, when we who are members of Congress get sick, we can go to the office of the attending physician to get free medical care, physicals, blood tests, x rays, lab work, even prescription drugs. What we would not get is a bill.

When there is no such medical care available to the great majority of the American people, it is unacceptable for us to be an island of free service. My bill ends that. We cannot forget that while these benefits are free to us, they cost taxpayers.

By putting ourselves on the same footing as our constituents, we will more directly and personally appreciate the health care crisis facing this country.

Our present inadequate system of health care is bankrupting our families, our businesses, our communities, and our whole economy.

Let me call my colleagues' attention to a notice now circulating among our staff. The words on this notice convey the problem. Written in capital red letters it says: "Due to dramatic changes in costs and coverages, please review your current plan." Members of our staff, like most Americans today, have no ability to avoid skyrocketing health care costs. Members of Congress should not be insulated from this reality.

Under my legislation, each member would pay for medical services provided by the attending physician of the Capitol.

By paying for these services, Members of Congress would take a small but significant step that would indicate that they understand the American people's concern about the lack of affordable and available health care. By putting ourselves on the same footing as the American people we would offer a sign of hope that the Congress will soon follow with action for comprehensive health care reform.

I want to take this opportunity to note that this bill is cosponsored by Senators MIKULSKI, ROCKEFELLER, KERREY of Nebraska, WIRTH, WELLSTONE, METZENBAUM, DECONCINI, CONRAD, and LEAHY.

I hope we can soon get it passed and then proceed to develop and enact a practical and comprehensive plan for national health insurance.

Mr. President I yield the floor.

Mr. STEVENS. Before the Senator yields the floor, Mr. President, would he yield?

Mr. WOFFORD. I yield.

Mr. STEVENS. I wonder if the Senator is familiar with the fact that by Executive Order signed by President Roosevelt during World War II, Members of Congress while in Washington are deemed to be eligible for the assistance of the military physicians that are on duty in this town, and that is the basis for the availability of medical services for those of us who are long distances from our homes, from our personal physicians, and that the Capitol physician's office is run on that basis.

There are military physicians there to answer to those people who are here away from their own physicians on an emergency basis. Is the Senator familiar with that?

Mr. WOFFORD. I am.

Mr. STEVENS. I put the Senator on notice that I will ask for a hearing on the bill and oppose enactment of it until we explore what this physician's office has meant in saving lives of the Members of the Senate, Members of the House, of the staffers and visitors to the Capitol over the period of time since it has been here.

I understand what the Senator is saying concerning the availability of health care to our citizens generally, and I do support this. But I think President Roosevelt had a reason for what he did in World War II, and it should not be brushed away.

I congratulate the Senator on his recent campaign. But I intend to see to it that the services that have been available for Members of Congress and for visitors to the Capitol since the period of World War II are not brushed away as quickly as the Senator seeks to do so.

I yield the floor.

Mr. WOFFORD. I welcome such a hearing, if the distinguished Senator from Kentucky, the chairman of the Rules Committee, can schedule it. I am aware of the good services of the attending physician, and have talked to him and would welcome such a hearing.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session, and that the Committee on Commerce, Science, and Transportation be discharged from consideration of the following nominations: Mary S. Gall, Victor Gold, Karen B. Phillips, Mary L. Azcuenaga, and Leslee B. Alexander; and nominations for permanent appointment in NOAA; and that the Committee on Rules and Administration be discharged from further consideration of the nominations of Scott E. Thomas and Trevor A. McC. Potter to be members of Federal Election Commissions.

I further ask unanimous consent that the Senate proceed to the consideration of those nominations, in addition to the following: Calendar Nos. 292, 445, and 451; and these nominations reported today by the Committee on Governmental Affairs: Francis S. Hodsoll, Edward J. Mazur, Kathleen Day Koch, H. Edward Quick, Jr., J. Same Winters, Tirso del Junco, Reggie Barnett Walton, and Emmet Gael Sullivan.

I further ask unanimous consent that the nominations be confirmed en bloc; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations, considered and confirmed en bloc, are as follows:

CONSUMER PRODUCT SAFETY COMMISSION

Mary S. Gall, to be a Commissioner of the Consumer Product Safety Commission.

CORPORATION FOR PUBLIC BROADCASTING

Victor Gold, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

INTERSTATE COMMERCE COMMISSION

Karen B. Phillips, to be a Member of the Interstate Commerce Commission

FEDERAL TRADE COMMISSION.

Mary L. Azcuenaga, to be a Federal Trade Commissioner.

CORPORATION FOR PUBLIC BROADCASTING

Leslee B. Alexander, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

FEDERAL RESERVE

Lawrence B. Lindsey, Federal Reserve.

U.S. ATTORNEY

Ernest W. Williams, to be U.S. Attorney.

U.S. DISTRICT COURT

John M. Roll, to be U.S. district judge.

OFFICE OF MANAGEMENT AND BUDGET

Francis S. Hodsoll, to be Deputy Director for Management, Office of Management and Budget.

Edward J. Mazur, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

OFFICE OF SPECIAL COUNSEL

Kathleen Day Koch, to be Special Counsel, Office of Special Counsel.

U.S. POST OFFICE

H. Edward Quick, Jr., to be Commissioner, Postal Rate Commission.

J. Sam Winters, to be a Governor, U.S. Postal Service.

Tirso del Junco, to be a Governor, U.S. Postal Service.

ASSOCIATE JUDGE

Reggie Barnett Walton, to be associate judge.

Emmet Gael Sullivan, to be associate judge.

STATEMENT ON THE NOMINATION OF LAWRENCE LINDSEY

Mr. McCAIN. Mr. President, I am proud today to vote in favor of this superbly qualified nominee to the Board of Governors of the Federal Reserve.

Lawrence Lindsey is clearly qualified to serve on the Board of Governors. He received a Ph.D. from Harvard University in 1985. He won the Outstanding Doctoral Dissertation Prize for his thesis. He was an associate professor of economics at Harvard University. He served President Reagan with distinction and is presently the Special Assistant to the President for Domestic Economic Policy.

He is also the author of "The Growth Experiment: How The New Tax Policy Is Transforming the U.S. Economy." This persuasive work has been widely praised. William E. Simon, former U.S. Secretary of the Treasury, stated:

> Few revolutions have been so plagued by myth and mistruths as the Reagan Revolution in tax reform. Larry Lindsey's book sets the record straight on the enduring achievements of the Reagan experiment, which has put our economy back on the road to prosperity and sustained growth.

The support for Dr. Lindsey is bipartisan. Senator MOYNIHAN stated:

> The breadth and depth of Dr. Lindsey's knowledge, his skills and abilities make him, in my estimation, an ideal candidate for the Board of Governors.

Mr. President, I reiterate, Lawrence Lindsey is clearly qualified to serve on the Board of Governors. I applaud the President for selecting another excellent nominee.

However, I must disparage the U.S. Senate for its mishandling of this nomination. The Senate's handling of this nomination is representative of the abuse of the power to advise and consent. This nominee was not the victim of a leak or a special interest group smear campaign. This nomination appears to have been delayed for petty partisan reasons.

Thus, while the economy was in recession, the Federal Reserve Board was unable to tap the breadth and depth of Dr. Lindsey's knowledge. When the country needed a person of Dr. Lindsey's qualification, the Senate delayed.

The Senate did not delay because Dr. Lindsey was unqualified. The Senate delayed for petty partisan reasons to the detriment of the economy and the American people.

President Bush nominated Dr. Lindsey on February 27, 1991, nearly 8 months ago. Has it taken the Senate 8 months to finally realize that Dr. Lindsey is qualified? I hope not because that would clearly speak poorly of the competence of the Senate.

It is outrageous and almost Orwellian that Dr. Lindsey and the monetary policy of the United States has been held hostage for 8 months.

Mr. President, I applaud the President, chide the Senate, and strongly support this nominee. The country needed him 8 months ago, and we need him now.

He will be a powerful voice for noninflationary economic growth.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE LINDSEY

Mr. SYMMS. Mr. President, today were considering the nomination of Dr. Lawrence Lindsey to the Board of Governors of the Federal Reserve. It is a testimony to our Nation's strength that we are still able to attract people like Dr. Lindsey to public service. I believe we have before us the nomination of a man who has outstanding qualifications and its my hope we can confirm him quickly.

I believe we need to confirm Dr. Lindsey without delay. The Federal Reserve Board is an immensely powerful and important institution, particularly as our economy is struggling to recover from recession. The decisions made by the Board include the setting of the discount rate, changing the Federal funds rate, setting the growth rates in the monetary aggregates, and responding to movements in the exchange rate.

These decisions can have a major impact on the how soon our economy recovers and on how strong that recovery will be. Its unfortunate the Board has been short-handed at this juncture because the Senate has so far failed to act promptly.

Dr. Lindsey's credentials are truly impressive. He graduated magna cum laude from Bowdoin College in 1976. In

1981, he earned a masters degree in economics from Harvard University and received his Ph.D. in economics from Harvard 4 years later. Not just another alchemist of the Dismal Science, his doctoral dissertation received the National Tax Association's Outstanding Thesis Award for 1985. After graduating he joined the Harvard economics faculty and was promoted to associate professor in 1988.

Since receiving his Ph.D., Dr. Lindsey has cut an impressive path in academia at Harvard, at the National Bureau of Economic Research, and at the National Tax Association. And he is one of those rare people who can write for academic publications like the Journal of Finance, the National Tax Journal, and the Journal of Public Economics as well as for the popular press.

In fact, I recently had a rare experience; if none of my colleagues have had this experience recently I recommend it. I met with Larry and I understood him. How often have you ever met with an economist and understood what he said?

Dr. Lindsey's experience extends far beyond our borders. As international affairs grow in importance, he brings an international perspective having been a consultant with the Frankfurter Institute in Germany. He worked with the Adam Smith Institute in the United Kingdom and worked with members of Prime Minister Thatcher's staff.

He assisted the Moderate Party in Sweden on their tax policy where his efforts may soon bear fruit because the Swedish people recently turned the reigns over to the Moderates, having thrown the Socialists and their failed Swedish model of government planning out of office. And, most recently, he was a consultant with the Foundation for Fiscal Studies in the Republic of Ireland.

He did not just deliver an obscure academic paper on these occasions, either. Dr. Lindsey's research was cited by Nigel Lawson, then Chancellor of the Exchequer in Great Britain, as a motivation for Britain's own reform of their income tax. Very few American economists can claim to have had such an impact on economic policy on an international scale.

Dr. Lindsey not only has outstanding academic qualifications but his policy experience is impressive as well. He served from 1981 to 1984, at the Council of Economic Advisers under Chairmen Murray Wiedenbaum and Martin Feldstein where he rose to the position of senior staff economist for tax policy.

In January 1989, he joined the Bush administration as Associate Director for Domestic Economic Policy in the White House Office of Policy Development. In January 1990, he was commissioned as a Special Assistant to the President for Domestic Economic Policy. The Federal Reserve has two very important functions in our economic system. The first, of course, is the setting of a monetary policy that will encourage economic growth and price stability. Most people who have thought about monetary policy figure they could do it as well as the Fed. I know I fall into that group. I doubt if many of us would do very well if we kept track of our predictions, just as we prefer not to keep track of our football picks come Monday morning. Setting monetary policy in today's world is incredibly difficult. And it is not made any easier by the knowledge that your mistakes are measured in lost jobs and higher inflation.

Predicting the strength of the economy is essential for determining the right levels of money growth. In fact, the hardest part about encouraging economic growth and price stability is predicting and performance of the real economy and the underlying inflationary forces.

We in Congress make the job of predicting economic growth much more difficult by constantly changing tax policies, regulatory policies, budget policies, and so forth, all of which impact on the economy.

First on this list, without question, is tax policy. When Congress changes tax policies, the economy can be affected very quickly. Some effects of a change in tax policy are felt immediately. For example, a cut in the capital gains tax results in virtually an immediate increase in asset values. The flip side is also true, as history will recall with Speaker Jim Wright's suggestion of some years ago that we consider an excise on stock transactions. The result—the stock market went into a tailspin.

Whatever the immediate effect of a change in tax policy, the full effect takes years. Currently, I am told, there is no one on the Board of Governors who has any special expertise in tax economics. There are numerous staffers, of course, but no one on the Board. There is no one, therefore, currently on the Board who can properly assess the impact of new tax policies on the economy.

I am hopeful, for example, that the Congress will be able to develop an economic recovery tax cut package to encourage investment. Dr. Lindsey's knowledge and experience will prove invaluable in making growth predictions and in setting aside the foolish ideas that an economic growth package would drive up interest rates. In case anyone has missed it, let me point out that the vast majority of proposals recently have been budget neutral even on a static basis.

In a world of self-proclaimed experts, Dr. Lindsey is a true, bona fide expert in tax policy and its economic effects. He will be a great asset to the Board as they try to take new tax policies into account when formulating their projections for growth and employment. Consequently, the Fed will be better able to adjust to the Congress' twists and turns and monetary policy will be better geared to stabilizing inflation and encouraging more rapid economic growth.

The second function of the Federal Reserve is to oversee and preserve a stable banking system. Again, Dr. Lindsey's expertise may be brought to bear immediately as a member of the Federal Reserve Board because he is been the White House's point man on banking reform and he understands the issues and the policies as well as anyone. I think his background will be invaluable in advising the other member of the Board as to how banking reform should be implemented.

Having worked in academia, overseas, and under two Presidents, Dr. Lindsey understands the formulation of economic policy and he understands the process of implementing policy. His knowledge, skills, and abilities make him a perfect candidate for the Board of Governors. We would be hard pressed to find someone with comparable experience.

Dr. Lindsey's nomination was approved by the Senate Banking, Housing and Urban Affairs Committee by a vote of 16 to 5. During his confirmation hearings before the Senate Banking Committee, Dr. Lindsey testified that he will pursue four goals while serving at the Federal Reserve:

First, to ensure economic recovery through a noninflationary, growth oriented monetary policy;

Second, to reduce the inflation rate gradually so that the Nation may come to enjoy the long term benefits of price stability;

Third, to ensure that the Federal Reserve's regulatory stance does not unnecessarily restrict credit conditions; and

Fourth, to support reform of the nation's financial system to meet the challenges of the global marketplace of the 21st century.

Dr. Lindsey has won bipartisan support and his writings have been lauded by both conservatives and liberals. Those who have worked with him have praised his receptiveness to new ideas. He does not let partisan politics get in the way of moving ahead on good policy proposals regardless where they came from.

The Nation is divided into 12 districts. One rule for the nomination of individuals to serve as a Governor of the Board of the Federal Reserve is that no district may be represented by more than Governor. This rule was established to ensure the President will select Governors to provide fair representation of the financial, agricultural, industrial, and commercial interests and geographic diversity of the country.

Dr. Lindsey was nominated to represent the fifth district which includes

West Virginia, North Carolina, South Carolina, the District of Columbia, Maryland, and Virginia. There has been some question as to whether Dr. Lindsey has been a resident of Virginia long enough to fulfill the residency requirement.

In my opinion, reserving chairs at a central bank based on geographic considerations is an archaic practice in a modern economy. Nevertheless, those are the rules and Dr. Lindsey and his family meet those rules.

The Lindseys have lived in the fifth district for a total of 5½ years. They own a home in Clifton, VA, where they have lived since returning to Virginia to join the Bush administration. They own no real estate or personal property in any other state and vote, pay taxes and register their cars in Virginia. Dr. Lindsey was commissioned from Virginia as an officer in January 1990, when he was named Special Assistant to the President.

I do not see how any reasonable person can question whether the Lindsey's qualify as residents of Virginia. I believe, and I am sure the President of the Senate, Senator BYRD could say for sure, but I believe some people have even run for the Senate and won having lived in the state for much less time than the Lindsey's have lived in Virginia.

As I have said before, Dr. Lindsey's distinguished professional career and superior academic expertise speak for themselves. We are entering into a new world. The changes in Russia could have a tremendous impact on our economy. Our banking system is under an immense strain and will undergo reform. We are struggling with a recession and the Congress is working towards an economic recovery package. The Federal Reserve will benefit tremendously from the knowledge and experience Lawrence Lindsey brings to the Board of Governors. I urge my colleagues to confirm Dr. Lindsey without delay.

STATEMENT ON THE NOMINATION OF DR. LAWRENCE B. LINDSEY

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Dr. Lawrence B. Lindsey who has been nominated by President Bush to serve on the Board of Governors of the Federal Reserve System. He will represent the Fifth Federal Reserve District which includes South Carolina, North Carolina, Virginia, Maryland, part of West Virginia, and the District of Columbia.

On February 28, 1991, President Bush submitted Dr. Lindsey's nomination to the Senate. Dr. Lindsey testified before the Committee on Banking, Housing, and Urban Affairs on May 7, 1991, and on July 10, 1991, the committee approved his nomination by a vote of 16 to 5.

Dr. Lindsey is a magna cum laude graduate of Bowdoin College where he was elected to Phi Beta Kappa. He earned a masters degree and a doctorate in economics from Harvard University. He received the National Tax Association's Outstanding Thesis Award for his doctoral dissertation. He is a prolific author, having written more than 40 publication on economic policy, as well as a book, "The Growth Experiment."

Dr. Lindsey served at the Council of Economic Advisors from 1981 until 1984 when he joined the Harvard University economics faculty as an assistant professor. He was promoted to associate professor in 1988.

President Bush named him the Associate Director for Domestic Economic Policy in the White House Office of Policy Development in January 1989. One year later, he became Special Assistant to the President for Domestic Economic Policy.

Dr. Lindsey has both wide-ranging professional and academic experience in economics. His achievements demonstrate that he has the high qualifications required of a Governor of the Federal Reserve Board.

I join a number of others in both the public and the private sector in endorsing Dr. Lindsey. I believe that he will be an excellent addition to the Board of Governors of the Federal Reserve System and I urge his speedy confirmation by the Senate.

STATEMENT ON THE NOMINATION OF JUDGE JOHN ROLL

Mr. DECONCINI. Mr. President, I am pleased that the Senate has confirmed Judge John Roll's nomination to be U.S. district judge for the District of Arizona. I introduced Judge Roll at his Judiciary Committee confirmation hearing on November 20, 1991, and would like to share with my colleagues the statement I made before the committee regarding Judge Roll's outstanding qualifications. The following is the text of my remarks:

STATEMENT OF SENATOR DECONCINI ON THE NOMINATION OF JUDGE JOHN MCCARTHY ROLL

Mr. Chairman, it is a distinct pleasure and honor to introduce Judge John Roll to the Senate Judiciary Committee, today. As a member of the committee for the last 14 years, I have worked on hundreds of judicial nominees and chaired or attended numerous nomination hearings. One of the great honors of being on this committee is the opportunity to participate actively in the nomination process.

That honor is even greater when you know the nominee and have personal knowledge of his capabilities. Mr. Chairman, as Pima County attorney before I came to the Senate in 1977, I am proud to state that Judge Roll was one of my deputy prosecutors at that time. He is an excellent lawyer. And he will be an excellent Federal district court judge.

Judge Roll was part of our team at the Pima County attorney's office that was recognized by the National District Attorney's Association as "the National Model Office for Major Cities." One of the items I treasure most is the resolution Judge Roll and the other staff in that office gave me in recognition of my tenure as Pima County attorney. That plaque, with Judge Roll's signature on it, is hanging in my personal office, today.

Judge John Roll will bring a wealth of experience to the Federal bench. He served as deputy Pima County attorney from 1973 to 1980. From 1980 to 1987, Judge Roll was an assistant United States attorney in Arizona. Since 1987, Judge Roll has been a judge on the Arizona court of appeals. He has been a distinguished member of that court and has developed an excellent reputation.

From the time his nomination was announced, I have been contacted by numerous lawyers and other judges in Arizona regarding the quality of Judge Roll's work on the State court of appeals. They have forwarded some of the highest recommendations I have ever received for a Federal district court nominee.

Indeed, one State supreme court justice wrote me and described Judge Roll's work the following way: "Consistently thorough, well-reasoned, logical in approach and legally consistent and accurate." That Justice's only regret in Judge Roll's nomination was that the State judiciary would lose an outstanding member of its court.

These comments from his colleagues and the lawyers that appear before him are the true testament of a good judge. We all know that the quality of a person's work is more important than the positions a person holds. From my personal experience, I can think of few judges in my State that have obtained such a great level of respect and admiration on the bench in such a short period of time.

Mr. Chairman, the Federal district court in Arizona was a legacy of reputable judges. Judge Roll will replace Judge Alfredo Marquez, who had a distinguished career on the Federal district court. Judge John Roll will be an excellent replacement for that court and will continue that legacy. The Federal district court will be well served by his confirmation.

Mr. Chairman, I look forward to following Judge's Roll's distinguished career on the Federal bench. I fully support his confirmation and I am confident he will serve this country well.

I would also like to introduce to the committee Judge Roll's wife, Maureen, and their three sons—Robert, Patrick, and Christopher. They have every reason to be proud of their father, today.

STATEMENT ON THE NOMINATION OF EDWARD QUICK

Mr. PRYOR. Mr. President, I am happy to speak on behalf of the nomination of H. Edward Quick for the position of Commissioner on the U.S. Postal Rate Commission.

Mr. Quick's experience and knowledge will make his contribution on the Commission of great value not only to the Commission itself, but also to the people of this Nation who are affected by the decisions and actions of the Postal Service.

I speak from personal knowledge of both Mr. Quick and the Postal Service; I have observed and admired Mr. Quick as he served as my legislative director during the last 5 years and I have observed and had concerns about the Postal Service during my tenure as chairman of the Postal Oversight Subcommittee in the Senate.

Mr. President, I would like to take just a moment to talk about Ed Quick's proud career of public service

and 23 years of work in the U.S. Senate. I hired Mr. Quick in late 1986. At that time he was administrative assistant to one of the Senate's finest Senators and a close friend of mine, now-retired Senator Thomas F. Eagleton. Senator Eagleton had hired Mr. Quick all the way back in 1969, to be part of his Senate staff during his first year in office. Mr. Quick became one of Senator Eagleton's closest advisers and soon was named his administrative assistant.

I understand that other administrative assistants often called Mr. Quick "The Chairman," out of respect for his knowledge of the Senate, his seemingly intuitive understanding of the American electorate, and his stature among his peers.

In fact, Mr. President, I have relied on these qualities in Mr. Quick during his years of work for me. I will always remember him particularly for his tremendous work for me on my legislation regarding what I have called improving the quality of work in the Senate. His advice and counsel on this issue and many others will be greatly missed in my office as he moves onto bigger and even better things.

There are others in the Senate whom I want to recognize who have been key supporters of Ed Quick's nomination. Most notable is Senator JOHN C. DANFORTH, my good friend from the State of Missouri, who came to know Mr. Quick through Senator Eagleton and their work together on behalf of the State of Missouri. Another very notable Senator in this process is Senator TED STEVENS of Alaska. Senator STEVENS is the ranking Republican member of our Subcommittee on Federal Services, Post Office and Civil Service. His help and support have been generous and greatly appreciated.

Finally, Mr. President, let me publicly thank Ed Quick for his service not only to my office and the people of Arkansas whom I represent, but also for his service to the Senate, an institution he has been loyal to and has worked to improve for 23 years.

During his nomination hearing before the Senate Governmental Affairs Committee, Mr. Quick gave what I thought was poignant testimony.

Mr. President, I know of no one better suited for the job of Postal Rate Commissioner than Ed Quick and urge my colleagues to support this nomination.

I ask unanimous consent to have Mr. Quick's statement printed in the RECORD.

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

TESTIMONY OF H. EDWARD QUICK, JR., NOMINATED TO BE COMMISSIONER, U.S. POSTAL RATE COMMISSION

Thank you, Mr. Chairman.

I thank President Bush for nominating me. I especially thank those who have supported me and advocated my course with unceasing determination; you, Mr. Chairman, Senator Stevens and Senator Danforth.

I believe that I am very fortunate. I have had wonderful parents, and as you have seen, I have a wonderful family. I am also singularly lucky because I have had the great good fortune to have worked for almost 23 years in the U.S. Senate and, during that time, to have worked for 2 of the finest men to serve in that body in current time—you, Mr. Chairman, and former Senator Thomas Eagleton. They each have an acute sense of justice, are fearless advocates of the causes they believe in, and are extraordinary politicians.

Of all these qualities, I think that the last is the most admirable, particularly when politicians and, most noteworthy, members of Congress are scored and pilloried with greater gusto now than even we have come to expect as normal.

Last night I was reading about politicians in several different anthologies and reference books. Predictably, most descriptions were negative and unflattering. I did, however, come across a description of politicians early this century in the British House of Commons by F.S. Oliver which I think is apt for the situation in the Congress and the Nation today, and I'd like to read that.

He says: "If we eventually escape from our present perplexities, it will not be because theorists have discovered some fine new principle of salvation or because newspapers"—or, I might add, television—"have scolded and pointed angry fingers at this one or that, or because we, their readers or listeners, have become excited and have demanded that something must be done. It will be because these decent, hardworking, cheerful, valiant, knockabout politicians, whose mysterious business it is to manage our affairs by breaking one another's heads shall have carried on their work as if nothing extraordinary was happening and shall have jumbled something out of their contentions that will be of advantage to their country. The notion that we can save ourselves without their help is an illusion, for politics is not one of those crafts that can be learned by the light of nature without an apprenticeship."

I am proud to have worked for 2 "decent, hardworking, cheerful, valiant, knockabout politicians and to have come to know and observe many others here in the Senate—and I might add, to have come to know many fine staff members such as myself, who worked for these knockabout politicians. It has been a great education for me, and I hope that it has prepared me for the service on the Postal Rate Commission.

LABOR-HHS APPROPRIATIONS

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3839, the Labor-HHS appropriations bill, just received from the House; that no amendments to the bill be in order; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 3839) was deemed read a third time and passed.

• Mr. HARKIN. Mr. President, I rise reluctantly in support of H.R. 3839, the fiscal year 1992 Labor, Health and Human Services, Education, and related agencies appropriations bill. The bill is identical to H.R. 2707 with one exception: section 514 of that bill, the language adopted by the House and Senate in identical form to prohibit the administration from implementing the gag rule, has been deleted.

The conference report on H.R. 2707 passed the Senate on November 7, by a vote of 73 to 24. The President vetoed the bill on November 19, and the House failed to override the President's veto on November 20, with a vote of 276 to 156. Earlier today, the House passed the new bill, H.R. 3839, by a vote of 359 to 56. All the report language included in House Report No. 102-121 and Senate Report No. 102-104 as modified by the conference report language included in Conference Report 102-282 apply in full to H.R. 3839; all the floor colloquies that were provided as further guidance on H.R. 2707 also apply fully to H.R. 3839.

Mr. President, earlier I said that I support adoption of H.R. 3839 reluctantly. I say reluctantly because it is a sad day for America when the President vetoes a $204.9 billion education, health, job training, and human services appropriations bill because he objects to language included in the bill guaranteeing American women full and complete medical information.

In order to preserve the gag rule the President was willing to put at risk almost $205 billion intended for maternal and child health, unemployment assistance, education funding for Pell grants and chapter I, nutrition programs for the elderly, immunization programs for children, and NIH biomedical research to help us find cures for many diseases that afflict mankind, and many other programs. It's ironic that the self-appointed Education President vetoed a bill that provides $31.9 billion for education programs, 9 percent more than last year.

Mr. President, unfortunately since the House was unable to override the President's veto, we are now forced to adopt this new legislation deleting language overturning the gag rule.

I fully supported overturning the gag rule and I continue to support overturning it. I believe the gag rule is misguided, reactionary, and inappropriate public policy. The gag rule prevents health professionals from fully informing their patients. That does not make any sense.

Why on Earth would we want to insert the Government into a doctor's examining room? Supporters of the gag rule must think women are unable to make decisions for themselves. Supporters of the gag rule must think the Federal Government should make women's most intimate and personal choices.

I find that attitude patronizing, paternalistic—and pathetic. It is ridicu-

lous on its face and grossly unfair to women.

Next year we will revisit this issue. Even though the President may be able to gag the doctors in title X clinics, he will not silence American women and he will not silence this Senator. I will continue to fight for the right of American women to be informed and for the right of American women to choose.●

EDUCATION FUNDING

● Mr. LAUTENBERG. Would the distinguished chairman of the Labor-HHS-Education Appropriations Subcommittee be willing to respond to a question regarding education funding in the Labor-HHS-Education appropriations bill?

Mr. HARKIN. I would be happy to engage in a colloquy with the distinguished Senator from New Jersey.

Mr. LAUTENBERG. The Senator from Iowa included funding in the Senate Labor-HHS-Education appropriations bill for the Community Education and Employment Centers [CEEC] that were authorized in the 1991 Perkins Vocational Education Act—section 363 of Public Law 101-392. I worked hard to secure this authorization. Section 363 was based on my bill to establish CEEC's, S. 1477, which I introduced in the last Congress. It was adopted in revised form as my amendment number 1466 to the Perkins Vocational Education Act when it was considered on the Senate floor. As finally enacted, it authorized $7.5 million per year to be made to no more than five school districts. The Senator from Iowa included full funding for this program in the fiscal year 1992 Labor-HHS-appropriations Senate report and additional report language encouraging the Department of Education to demonstrate this program in an urban school district in New Jersey. The Senator also included $2 million in the national programs and demonstrations section of the Vocational Education Program to carry out two demonstrations of centers described in the CEEC authorizing legislation. In fact the Senate report language cites section 363 of Public Law 101-392 as the basis for these demonstrations.

Unfortunately, final funding for the Vocational and Adult Education Basic Grant Program did not meet the $1 billion trigger level and the $7.5 million was dropped in conference. The conferees did, however, retain the $2 million in funding for the two demonstrations.

Yet, the conferees have provided sufficient room within the $14 million appropriated for national demonstration programs to allow an initial demonstration of CEEC's in both urban and rural settings. The $2 million was retained for two demonstrations that would enable a test of the CEEC concept in rural settings. But, the problems of poverty, joblessness, and mismatches of training and job opportunities prevail in many of our urban centers. The CEEC was intended to test a broad-based approach to the educational and vocational needs of students from impoverished and disadvantaged urban backgrounds.

While a portion of the remaining $12 million for national demonstration programs has also been earmarked for other purposes, it is my understanding that funds remain for use by CEEC's in urban areas. So, my question to the Senator from Iowa is as follows: Within the $14 million appropriated for national demonstration programs, would there be funds available to demonstrate the CEEC concept in an urban area?

Mr. HARKIN. Yes; $3 million is available in the vocational education national demonstration account for three CEEC demonstration programs.

Mr. LAUTENBERG. In addition, if a New Jersey school district or districts submit a meritorious application for a CEEC demonstration, would the distinguished chairman of the Senate Labor-HHS Subcommittee encourage the Department of Education to fund such a demonstration?

Mr. HARKIN. Yes; the committee has previously noted that economically and disadvantaged students in low-income urban school districts in New Jersey would greatly benefit from the extensive services offered in these model demonstration centers. The committee has also encouraged the Department of Education to test the success of the CEEC model in an urban school district in New Jersey, where students face the same barriers to education and employment that the program is designed to address.

Mr. LAUTENBERG. I would like to thank the Senator for engaging in this colloquy and providing direction to the Department of Education with respect to a demonstration of the CEEC Program.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 9 a.m. Saturday, November 23, and that following the prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later in the day.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FORD. If there is no further business today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess until 9 a.m., Saturday, November 23.

There being no objection, the Senate, at 10:43 p.m., recessed until Saturday, November 23, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 22, 1991:

DEPARTMENT OF TRANSPORTATION

JERRY RALPH CURRY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, VICE JAMES BUCHANAN BUSEY IV.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SCOTT M. SPANGLER, OF ARIZONA, TO BE ASSOCIATE ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT (OPERATIONS), VICE C. ANSON FRANKLIN, RESIGNED.

THE JUDICIARY

ANITA A. BRODY, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 22, 1991:

FEDERAL RESERVE SYSTEM

LAWRENCE B. LINDSEY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1986.

EXECUTIVE OFFICE OF THE PRESIDENT

FRANCIS S. M. HODSOLL, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

EDWARD JOSEPH MAZUR, OF VIRGINIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

OFFICE OF SPECIAL COUNSEL

KATHLEEN DAY KOCH, OF VIRGINIA, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF 5 YEARS.

THE JUDICIARY

REGGIE BARNETT WALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS.

EMMET GAEL SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

POSTAL RATE COMMISSION

H. EDWARD QUICK, JR., OF MARYLAND, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 1996.

U.S. POSTAL SERVICE

THE FOLLOWING NAMED PERSONS TO BE GOVERNORS OF THE U.S. POSTAL SERVICE:

TIRSO DEL JUNCO, OF CALIFORNIA, FOR THE TERM EXPIRING DECEMBER 8, 2000. (REAPPOINTMENT)

J. SAM WINTERS, OF TEXAS, FOR THE TERM EXPIRING DECEMBER 8, 1999, VICE IRA D. HALL, JR., TERM EXPIRED.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FEDERAL ELECTION COMMISSION

TREVOR ALEXANDER MC CLURG POTTER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997.

SCOTT E. THOMAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1997. (REAPPOINTMENT)

THE JUDICIARY

JOHN M. ROLL, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DEPARTMENT OF JUSTICE

ERNEST WILSON WILLIAMS, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS.

CONSUMER PRODUCT SAFETY COMMISSION

MARY SHEILA GALL, OF VIRGINIA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 27, 1991.

CORPORATION FOR PUBLIC BROADCASTING

VICTOR GOLD, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

INTERSTATE COMMERCE COMMISSION

KAREN BORLAUG PHILLIPS, OF VIRGINIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1996.

FEDERAL TRADE COMMISSION

MARY L. AZCUENAGA, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1991.

CORPORATION FOR PUBLIC BROADCASTING

LESLEE B. ALEXANDER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING GERRY C. MC KIM, TO BE CAPTAIN, AND ENDING RICHARDO RAMOS, TO BE ENSIGN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 15, 1991.